

AGENDA FOR THE JULY 1, 2010 EC MEETING

CASES TO BE CLOSED:

Iten Industries, Inc. (Plant 1)	#2844	NEDO	Final F&Os	Tom/Steve
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PENDING CASES:

Famous Enterprises, Inc./Selvey's Dirt Works, Ltd.	#2775	NWDO	Prop. F&Os	Tom/Don
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Kenmore Construction Co., Inc.	#2794	Akron	Prop. F&Os	Tom/Don
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OTHER BUSINESS:

- (1) Distribute updated schedule of progress for resolving all "old" cases for 2009, 2010 and 2011.
- (2) John is scheduled to provide food for today's meeting at 3:00 p.m. in DAPC Rm C.
- (3) The next meeting is scheduled for Thursday, July 15, 2010 at 3:00 p.m. in DAPC Rm C. Don is scheduled for food. (Future food schedule: Marc for July 29; Tom for August 12.)
- (4) Bryan Zima is retiring as of June 30. Best wishes to Bryan in retirement.

ENFORCEMENT COMMITTEE MEETING MINUTES

(July 1, 2010)

Case Number: 2844	Dates:
Entity: Iten Industries, Inc. (Plant 1)	EAR: 07/28/09
Field Office: NEDO	DWL: N/A
Contact: Muhammad Mereb/Tom Kalman	F&Os: 06/23/10
Attorney: Stephen Feldmann	Referral: N/A
	Dismissal: N/A

Background: On April 22, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to Iten Industries, Inc. ("Iten") to attempt an administrative settlement of the violations that occurred at its Plant 1, which is located at 4001 Benefit Avenue in Ashtabula, Ohio. The F&Os proposed to require Iten to pay a civil penalty of \$57,000 within 14 days after the effective date of the F&Os, of which \$11,400 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Iten's Plant 1 is used for the manufacture of thermoplastic and thermoset plastic parts and employs the following emissions units:

Emissions unit K001 (Treater #2); Egan treater for paper and fabric coating with phenolic and epoxy resins;

Emissions unit K002 (Treater #1); Egan treater for paper and fabric coating with phenolic and epoxy resins;

Emissions unit K003 (Treater #3); Epoxy and phenolic resin coating of paper and fabric;

Emissions unit K004 (Treater #4); Epoxy and melamine coating of fiberglass fabric and

Emissions unit P003 (Phenolic Resin Mixing); Phenolic resin and epoxy resin mixing for use at treaters.

Volatile organic compound ("VOC") emissions from emissions units K001 through K004 and organic material ("OM") emissions from emissions unit P003 are all captured and vented to a common thermal oxidizer for combustion.

Iten's Title V permit became effective on January 16, 2003, and has an expiration date of January 16, 2008. However, as provided in OAC Rule 3745-77-08(E)(1), the terms and conditions of the expired Title V permit remain in effect until final action is taken by the Director on Iten's timely filed renewal Title V permit application.

The proposed F&Os cited Iten for failure to comply with OAC Rule 3745-21-09(B)(6), the Title V permit, and ORC § 3704.05(G) and (J)(2) for emissions units K001, K002 and K004. OAC Rule 3745-21-09(B)(6) and the Title V permit require the capture and control equipment serving emissions units K001, K002, K003 and K004 have an overall VOC emission control efficiency of not less than 81 percent, by weight, and that the VOC emission control equipment has a VOC emission destruction efficiency of not less than 90 percent, by weight. (Iten was exempted from testing emissions unit K003 pursuant to a Director's exemption letter dated February 25, 2008.) Testing on December 28, 2007, showed an average overall VOC emission control efficiency of 75.5 percent, by weight, and an average VOC emission destruction efficiency for the thermal oxidizer of 75.5 percent, while emissions unit K001, K002, K004 and P003 were in operation.

Furthermore, the proposed F&Os cited Iten for failure to comply with former OAC Rule 3745-21-07(G)(2), former OAC Rule 3745-21-07(G)(6), OAC Rule 3745-21-07(M)(2), the Title V permit, and ORC § 3704.05(G) and (J)(2) for emissions unit P003. OAC Rule 3745-21-07(G)(2), former OAC Rule 3745-21-07(G)(6), OAC Rule 3745-21-07(M)(2) and the Title V permit require the capture and control equipment serving emissions unit P003 have an overall OM emission control efficiency of not less than 85 percent, by weight, and that the control equipment has an OM emission destruction efficiency for the thermal oxidizer of not less than 90 percent, by weight. Testing on December 28, 2007, showed an average overall VOC emission control efficiency of 75.5 percent, by weight, and an average VOC emission destruction efficiency for the thermal oxidizer of 75.5 percent, while emissions unit K001, K002, K004 and P003 were in operation.

Iten's compliance plan indicated that the problem had been determined to be cracks in several of the VOC pre-heater tube bundles within the unit prior to VOC emission combustion and these cracks allowed un-combusted emissions to escape to the egress point. Iten anticipated repairs to be completed within 30 days. In a letter dated August

10, 2009, Iten indicated that the thermal oxidizer was shut down from May 18 through 28, 2008 for major repairs.

On July 17, 2008, Iten performed testing on emissions unit K001, K002, K004 and P003. The average overall VOC emission control efficiency was 98.68 percent. The average VOC emission destruction efficiency of the thermal oxidizer was 98.68 percent. Based on these results, NEDO informed Iten in a letter dated September 23, 2008 that it had returned to compliance.

See the EC Meeting Minutes of April 22, 2010 for additional background information.

On June 9, 2010, a meeting was held with Iten to discuss settlement of the violations with the proposed F&Os. Iten reiterated that the cause of the noncompliance was due to leaking stainless steel tube bundles in the pre-heater section of the oxidizer, which were not readily apparent during previous inspections of the 17-year old oxidizer. Repairs at a cost of \$180,000 were performed to replace the tube bundles and to re-brick the refractory. A settlement was reached during that meeting that included a payment plan to minimize the impact of the penalty on the company's financial condition.

Action: On June 23, 2010, final F&Os were issued to Iten. The F&Os require Iten to pay a civil penalty of \$30,000 for the violations. Of that amount, \$6,000 is to be paid within 30 days after the effective date of the F&Os and is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. The remaining \$24,000 is to be paid to Ohio EPA in two installments, with \$9,000 due within 30 days after the effective date of the F&Os and \$15,000 due by June 15, 2011. It is estimated that this repair to the control equipment reduced VOC emissions from these units by about 136 tons per year.

Case Closed



Case Number: 2775	Dates:
Entity: Famous Enterprises, Inc./ Selvey's Dirt Works, Ltd.	EAR: 11/05/08
Field Office: NWDO	DWL: N/A
Contact: Urvi Doshi/Tom Kalman	F&Os: 06/29/10 (prop.)
Attorney: Donald L. Vanterpool	Referral: N/A
	Dismissal: N/A

Background: Famous Enterprises, Inc. ("Famous") of 109 North Union Street in Akron, Ohio, is the owner of the Apex Building, which is located at 1623 1st Street in Sandusky, Ohio. Selvey's Dirt Works, Ltd. ("Selvey's") of P.O. Box 53, Clyde, Ohio, was hired by Famous to demolish the front three bays of the Apex Building, but not the boiler house that is also located at the front of the building.

An asbestos survey of the Apex Building was conducted in February 2002 and identified the following regulated asbestos-containing material ("RACM") in front of the building and in the boiler house:

Boiler house: 375 square feet of boiler insulation and 185 square feet of tank insulation.
Piping on first floor: 2,075 linear feet of pipe insulation with cementitious fittings, of which approximately 1,000 linear feet of pipe insulation is in the front three bays of the building.

Since the amount of RACM in the front three bays of the facility exceeded the threshold level of 260 linear feet on pipe and pursuant to OAC Rule 3745-20-02(B)(1), the requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05 applied to Famous and Selvey's.

On November 15, 2007, and pursuant to the notification requirements of OAC Rule 3745-20-03(A), Affiliated Environmental Services ("AES") submitted to Ohio EPA a notification of intent to perform an asbestos abatement at the facility. The amount of RACM to be removed was identified as 1,000 linear feet on pipes and the dates for removal were identified as November 28 through 30, 2007. Only the asbestos in the front three bays of the facility was to be removed, and did not include the asbestos in the boiler house.

On November 20, 2007, and pursuant to the notification requirements of OAC Rule 3745-20-03(A), Selvey's submitted to Ohio EPA a notification of intent to perform a demolition of the facility from December 5, 2007 through June 2008. Only the front of the facility, and excluding the boiler house, was to be demolished.

From December 3 through 5, 2007, AES removed approximately 1,000 linear feet of pipe insulation (RACM) from the front of the building, excluding the boiler house.

On or about June 12, 2008, the entire front of the building, including the boiler house, had been demolished, with 560 square feet of boiler and tank insulation and an unknown amount of pipe insulation (RACM) still inside of the boiler house, and only

rubble remained at the site. The boiler had been removed, dismantled and taken to scrap yards some weeks ago. Samples of transit material collected from the debris pile near the boiler house indicated the presence of asbestos above the threshold level for regulation.

As a result of this demolition, the following violations of the asbestos emission control standards and State law occurred:

- (1) OAC Rule 3745-20-03(A), for beginning demolition of the boiler house on or about June 12, 2008 without submitting a notification to Ohio EPA at least ten working days before the beginning of the demolition operation;
- (2) OAC Rule 3745-20-04(A)(1), for failing to remove all RACM from the boiler house before beginning demolition of the front of the building on or about June 12, 2008;
- (3) OAC Rule 3745-20-04(B)(1), for allowing RACM to be handled or disturbed during the demolition of the boiler house at the Apex Building on or about June 12, 2008 without having at least one authorized representative, trained in the provisions of OAC Chapter 3745-20, present at the location of the demolition;
- (4) OAC Rule 3745-20-05(B)(2), for failing to keep asbestos-containing waste material adequately wet during and after demolition of this portion of the facility where asbestos was not removed prior to demolition, on or about June 12, 2008 and on June 19 and 20, and July 2, 7, and 11, 2008, when an Ohio EPA inspector returned to the site and found debris partially covered and dry despite Ohio EPA informing the parties that the presence of asbestos in the debris requires the debris pile to be maintained adequately wet; and
- (5) ORC § 3704.05(G), for violating the above-mentioned rules that were adopted pursuant to ORC Chapter 3704.

After the Ohio EPA inspector visited the facility on June 20, 2008, the demolition project was halted and Partners Environmental Consulting, Inc. was hired by Famous to oversee the cleanup and GCS Industrial Services, Ltd. was hired to perform an asbestos abatement. The asbestos abatement was completed on July 11, 2008.

On June 23 and July 9, 2008, notice of violation ("NOV") letters were sent to Famous and Selvey's for the violations.

On November 5, 2008, Northwest District Office of Ohio EPA submitted an Enforcement Action Request to Central Office for the violations.

Action: On June 29, 2010, proposed Director's Final Findings and Orders ("F&Os") were sent to both Famous and Selvey's to attempt an administrative settlement of the violations. The F&Os propose to require Famous and Selvey's to pay Ohio EPA, within 30 days after the effective date of the F&Os, a civil penalty amount of \$48,500, of which \$9,700 is to be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Penalties for additional days of violation of OAC Rule 3745-20-05(B)(2) at \$500 per day were assessed for 29 days for the failure to keep the debris piles adequately wet.

Case Continued



Case Number: 2794	Dates:
Entity: Kenmore Construction Co., Inc.	EAR: 02/13/09
Field Office: Akron	DWL: N/A
Contact: Urvi Doshi/Tom Kalman	F&Os: 06/29/10 (prop.)
Attorney: Donald L. Vanterpool	Referral: N/A
	Dismissal: N/A

Background: Kenmore Construction Co., Inc. ("Kenmore") is a general construction contractor with an office located at 700 Home Avenue in Akron, Ohio. Kenmore performs various construction activities including the cutting and sawing of masonry and employs construction equipment that travel on paved and unpaved roads at construction sites.

In 2007 through 2010, Kenmore was involved in a number of construction projects in Akron and Cuyahoga Falls. During these projects, Kenmore operated various masonry cutting and sawing equipment and employed construction vehicles on paved and unpaved roads that emitted fugitive dust. In addition, such vehicle traffic caused dirt from the roadways to be carried out onto public roadways and become re-suspended into the air by traffic.

Kenmore failed to employ reasonably available control measures ("RACM") to eliminate or minimize visible particulate emissions of fugitive dust from sources of fugitive dust

emissions at its construction sites, in violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(G). During a total of 22 incidents from 2007 through 2010, Kenmore failed to employ RACM on fugitive dust sources that it operated. 21 incidents involved projects in Akron, primarily at the University of Akron Stadium construction, and one involved a project in Cuyahoga Falls. The sources of fugitive dust consisted of: (1) rotary broom/sweeper operation, (2) sawing of vitrified clay pipe, concrete pipe, and stones, (3) jackhammering of concrete curbs, (3) construction traffic and dirt carryout onto public paved streets, (4) unpaved haul roads, (5) demolition work, and (6) excavation activities.

Furthermore, during six incidents in 2008 and 2009 in Akron, Kenmore caused visible particulate emissions from paved roadways due to dirt carryout, which exceeded six minutes during any sixty-minute observation period, in violation of OAC Rule 3745-17-07(B)(4) and ORC § 3704.05(A) and (G). Also, during two incidents in 2009 in Akron, Kenmore caused visible particulate emissions from unpaved roadways due to dirt carryout, which exceeded thirteen minutes during any sixty-minute observation period, in violation of OAC Rule 3745-17-07(B)(5) and ORC § 3704.05(A) and (G).

On May 16, August 1 and November 19, 2008, Akron Regional Air Quality Management District ("ARAQMD") sent Notice of Violation ("NOV") letters to Kenmore which cited violations of OAC Rule 3745-17-08(B) associated with some of the above incidents. The NOV letters required Kenmore to cease illegally operating fugitive dust sources without employing RACM and to submit a plan describing the dust control measures that would be utilized in the future. In response to the NOV letters, Kenmore stated that it would continue to employ the best construction standards and practices in the future.

Kenmore has been in contact with ARAQMD regarding dust control; however, repeat violations have occurred and continue to occur. Per Kenmore's request, a meeting was conducted on June 6, 2008, at the ARAQMD office to discuss fugitive dust emissions and possible control measures. However, the violations have continued by its workers despite Kenmore's having water application equipment available.

Kenmore has a history of causing dust complaints and violating dust control regulations since April 1, 1981. By now, Kenmore should be very familiar with these regulations.

On February 13, 2009, ARAQMD submitted an Enforcement Action Request to Central Office for the violations that occurred. Administrative orders and a civil penalty were requested to be obtained.

Action: On June 29, 2010, proposed Director's Final Findings and Orders ("F&Os")

were sent to Kenmore to attempt an administrative settlement of the violations. The F&Os propose to require Kenmore to: (1) upon the effective date of the F&Os, achieve compliance with the requirements of OAC Rules 3745-17-07(B)(4), 3745-17-07(B)(5) and 3745-17-08(B) for its fugitive dust sources located in Appendix A areas and maintain compliance thereafter, and (2) pay a civil penalty in the amount of \$31,500, from which \$6,300 is proposed to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. The gravity component of the civil penalty was mitigated by 30 percent because there was a small amount of non-complying emissions.

Case Continued



ACTIONS & MINUTES APPROVED BY:

A handwritten signature in black ink that reads "Bob Hodanbosi". The signature is written in a cursive style and is positioned above a horizontal line.

Bob Hodanbosi, Chief, DAPC

NEXT MEETING:

July 15, 2010

3:00 p.m.

DAPC Room C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (99)

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2676	OmniSource Corporation - Lima Division	NWDO	MG/MM	02/23/06	11/08/07
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	DV/JK	02/19/08	02/19/08
2726	Glick Real Estate LTD/All-Type Demolition and Excavating (asbestos)	Canton	DV/FU	05/19/06	05/19/08
2739	BP - Husky Refining LLC	TDES	SF/JP	08/01/07	07/18/08
2745	OmniSource Corporation	NWDO	MG/MM	12/14/05	08/11/08
2752	Allied Corporation (Plant #75)	Akron	MG/JP	01/29/05	09/02/08
2775	Selvey's Dirt Works / Famous Supply (asbestos)	NWDO	DV/UD	06/12/08	11/05/08
2777	Sawbrook Steel LLC	HAMCO	SF/MM	11/13/06	11/07/08
2781	Great Lakes Crushing, Ltd. (asbestos)	NEDO	SF/PP	06/18/08	11/18/08
2782	International Converter, Inc. - Caldwell (HPV)	SEDO	DV/FU	07/05/08	11/26/08
2789	Complete Clearing, Inc. (asbestos)	NWDO	MG/PP	07/09/08	02/05/09
2790	Erie Materials, Inc.	NWDO	SF/TT	04/16/08	02/05/09
2791	Carneuse Lime, Inc. (Millersville) (HPV)	NWDO	DV/FU	02/14/06	02/09/09
2793	Combs' Trucking Incorporated	HAMCO	SF/MM	07/16/08	02/09/09
2794	Kenmore Construction Co., Inc.	Akron	DV/UD	05/14/08	02/13/09
2795	Evans Landscaping, Inc.	HAMCO	MG/TT	05/01/08	02/23/09
2803	Wheeling Brake Band & Friction Mfg., Inc./Investment Capital of America, Inc./Rob Burgess Enterprises, LLC (asbestos) (multi-media case, DSIWM lead)	SEDO	DV/PP	01/13/09	02/26/09
2810	Ellwood Engineered Castings Co. (HPV)	NEDO	DV/TT	02/25/09	03/13/09
2811	NewKor, Inc.	Cleve.	SF/EY	01/27/09	03/30/09
2815	Royal Sebring Properties, Inc., a.k.a. Zee Tech Warehousing	M-TAPCA	MG/JK	09/17/07	04/02/09
2819	Masonic Temple/The New Victorians, Inc./AHC, Inc. (asbestos)	CDO	DV/	01/24/08	04/27/09
2821	OmniSource Corporation, Mansfield Division	NWDO	MG/MM	05/08/08	05/04/09
2823	Rudzik Excavating, Inc./Charles J. Arendas (asbestos)	MTAPCA	DV/FU	02/27/09	05/11/09
2826	Staker Alloys, Inc.	RAPCA	DV/FU	11/14/07	05/29/09
2829(VC)	ODNR, Division of Forestry (regarding the Shawnee State Forest open burning)	Ports.	DV/JP	04/24/09	06/03/09

Updated: 07/01/10

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2833	Veterans of Foreign Wars Post 6519 (asbestos)	Lake Co.	DV/TT	04/29/08	06/22/09
2835	Elyria Foundry Company (HPV)	NEDO	SF/PP	10/18/07	07/13/09
2840	Von Vittersan Le Copla USA LLC Delaware Corporation (asbestos)	MTAPCA	MG/UD	07/03/08	07/23/09
2841	Salvatore Sorice/Michael A. Kernan (asbestos)	MTAPCA	SF/MM	03/13/09	07/27/09
2847	Ultimate Building Systems, Ltd.	HAMCO	SF/FU	04/29/08	08/03/09
2848	Sandusky Dock Corporation	NWDO	BZ/JO	07/27/08	08/06/09
2849	Dean Calhoun/Tim Gearhart (asbestos)	NWDO	DV/MM	03/27/09	08/11/09
2850	Yochman Excavating, Inc. (open burning)	M-TAPCA	MG/PP	03/23/09	08/05/09
2852	AOHW Corporation/Hasper Leggett (asbestos)	M-TAPCA	DV/UD	03/25/09	08/11/09
2853	Valentine Contractors, Inc.	Akron	MG/TT	05/30/08	08/17/09
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JK	02/09/09	09/09/09
2858	Burnham Foundry, LLC	SEDO	DV/TK	04/01/08	09/22/09
2859	Rollin Cooke, d.b.a. Concord Sunoco, Cooke's Car Care, Incorporated, and Munson Corners Sunoco	NEDO	SF/JK	07/20/09	09/17/09
2860	Richard C. Zahn	Akron	SF/PP	06/15/09	09/14/09
2861	Scott Klem	Akron	DV/TT	08/14/09	09/14/09
2864	Forest Creek Mobile Home Park	HAMCO	SF/FU	03/19/09	09/25/09
2866	3M Medina (HPV)	Akron	MG/PP	08/27/09	09/29/09
2867 (VC)	ODNR, Division of Forestry (regarding another Shawnee Forest open burning)	Ports.	SF/JP	04/02/09	09/02/09
2872	Piper Excavation (asbestos and open burning)	NWDO	DV/JK	11/24/08	11/03/09
2873	Hanini Marathon - Superior	Cleve.	MG/EY	08/21/08	11/04/09
2875	David Klein, d.b.a. Belle-Aire Cleaners	Akron	DV/	10/07/09	11/13/09
2877	Murphy Oil USA, Inc. (GDFs #6630, #7294, and #7371)	NEDO	SF/JK	07/27/09	11/30/09
2878	Pexco Packaging Corp.	TDES	DV/EY	03/13/09	12/01/09
2880	Prime Properties Limited Partnership, d.b.a. Prime #3, 5 and 9	Cleve.	SF/EY	09/05/08	12/07/09
2881	Tube City IMS, LLC	NWDO	DV/MM	08/26/08	12/10/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2883	The Andersons Marathon Ethanol, LLC	RAPCA	MG/JK	07/16/08	12/28/09
2884 (112r)	Eaton Aeroquip, Inc.	N/A	SF/KJ	07/21/09	12/30/09
2885	Hughes-Roller Building Co./Sovereign SP, LLC (asbestos)	NEDO	MG/UD	07/07/09	12/08/09
2886	David Rose, d.b.a. Rose Excavating/Jacqueline MacAleese (asbestos)	NEDO	DV/TT	10/17/08	12/08/09
2888	Titan Tire Corporation	NWDO	MG/MM	09/28/07	01/20/10
2889	Kaz Paving, Inc./George Koustis (asbestos)	Lake Co.	DV/PP	01/08/09	01/15/10
2890	Seth Powers	Akron	SF/TT	02/05/09	01/15/10
2891	Stocker's Excavating LLC/Yoho Excavating, Inc. (asbestos)	MTAPCA	MG/FU	07/30/09	01/18/10
2892	Sartaj Oil Company - Shell #2332	Cleve.	DV/JP	11/10/08	01/25/10
2893	Sterling Professional Group, LLC/Cleveland Public Library (asbestos)	NEDO	SF/MM	11/09/09	01/28/10
2894	The University of Akron	Akron	MG/JK	05/23/08	02/01/10
2895	Medhurst Mason Contractors, Inc.	Akron	DV/FU	09/19/07	02/11/10
2896 (VC)	Lorain County II Landfill	NEDO	SF/JK	11/27/09	02/11/10
2897	Clark Sunoco	Cleve.	MG/JP	10/14/08	02/17/10
2898	Stark C & D Landfill/Marshall Land Company/The City of Canton	NEDO	DV/UD	11/13/09	02/23/10
2900	Clarkia Gas	Cleve.	MG/JP	02/10/09	03/01/10
2902	True North #316	Cleve.	DV/JP	02/24/09	03/17/10
2903	D & D Marathon	Cleve.	SF/JP	02/02/09	03/22/10
2904	United States Gypsum Company (HPV)	NWDO	MG/TT	03/14/07	03/24/10
2905	Pilot Travel Centers, LLC (Pilot #0002)	NEDO	DV/JK	12/10/09	03/24/10
2906	Denison Gas USA	Cleve.	SF/JP	09/16/08	03/29/10
2907	Vicky L. Walls	SWDO	MG/JP	10/14/09	04/02/10
2908	Oglebey Norton Glass Rock Plant (HPV)	SEDO	DV/PP	09/27/07	04/13/10
2909	Puritas Gas	Cleve.	SF/JP	03/09/09	04/13/10
2910(VC)	Dan & Sheryl Nellis (regarding outdoor wood-fired boiler)	NEDO	MG/	12/11/09	03/26/10

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2911	International Paint, LLC	Cleve.	DV/JJP	08/17/09	04/26/10
2912	Wallace L. Geuy	SWDO	SF/JJP	04/09/10	04/23/10
2913	Crown Battery Manufacturing Company	NWDO	MG/UD	07/14/09	05/03/10
2914	City of Akron/Akron Energy Systems, LLC	Akron	BZ/TK	09/09	05/01/10
2915	The Hygenic Corporation	Akron	DV/PP	03/03/09	05/10/10
2917	Al Brice	NWDO	SF/TT	04/06/10	05/21/10
2918	POET Biorefining - Leipsic	NWDO	DV/JK	07/08/09	06/02/10
2919	Ohio One Contractors and Developers, LLC/Sergio Dipaolo/Edgar C. Knieriem, d.b.a. Diversified Resources, Inc./Mon Vittersan Le Copla USA, LLC (asbestos)	MTAPCA	MG/JK	03/09/10	04/16/10
2920	The Kreidler Construction Co./Burdman Group, Inc. (asbestos)	MTAPCA	SF/FU	02/24/10	04/16/10
2921	Troy Noble	CDO	DV/JJP	03/17/10	05/27/10
2922	John Schneider	CDO	MG/JJP	03/26/10	05/27/10
2923	Delbert Troyer / A & J	CDO	SF/JJP	05/05/10	05/27/10
2924	Berkshire Campgrounds	CDO	DV/JJP	05/03/10	05/27/10
2925	William Pizzuto, d.b.a. All Excavating Co./M. S. Consultants, Inc./City of Campbell (asbestos)	MTAPCA	MG/MM	02/09/10	04/20/10
2926	Hidden Valley Fruit Farm, LLC/Robert E. Ullrich	HAMCO	SF/JK	10/05/09	04/30/10
2927	Career Driving and Learning Centers, Ltd.	Akron	DV/TT	04/16/10	05/28/10
2928	Karen Suiter	SWDO	MG/JJP	06/09/10	06/18/10
2929	Don and Dwayne Detrick	SWDO	SF/JJP	05/11/10	06/18/10
2930	City of East Cleveland (E-check)	N/A	DV/JJP	01/01/10	06/25/10
2931	City of Eastlake (E-check)	N/A	DV/JJP	01/01/10	06/25/10
2932	Village of Highland Hills (E-check)	N/A	DV/JJP	01/01/10	06/25/10
2933	Village of Lakemore (E-check)	N/A	DV/JJP	01/01/10	06/25/10
2934	Village of North Randall (E-check)	N/A	DV/JJP	01/01/10	06/25/10
2935	J. W. Pustelak, d.b.a. J. W. Pustelak, Inc.	Akron	MG/FU	08/20/09	06/28/10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

January

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2698 (112r)	Sugar Creek Packing Co. (Washington Courthouse)	3	N/A	TK	SS	DV	01/31/08					01/14/10	
2719 (112r)	Sugar Creek Packing Co. (Dayton)	3	N/A	TK	SS	DV	04/28/08					01/14/10	
2750 (VC)	New Day Farms, LLC/Henning Construction Company	3	CDO	JP	JP	SF	08/21/08					01/11/10	
2784	Reichert Excavating, Inc.	0	CDO	JP	JP	SF	12/04/08					(01/11/10)	
2760	Precision Environmental Company (asbestos)	1	Akron	TK	PP	SF	10/22/08		01/12/10 (DWL)	Closed-NFA	01/14/10		
2813	ConSun Food Industries, Inc. (Convenient Food Mart GDFs #736 and #746)	3	NEDO	TK	JK	DV	03/27/09					01/14/10	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

January

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2870	Brent Saionz, d.b.a. Simon Excavating	3	NWDO	TK	TT	MG	10/15/09					01/13/10	
2874	Ron Smith	3	NWDO	TK	FU	SF	11/09/09					01/12/10	
2744	The Afcoase Group (asbestos)	3	NEDO	TK	JK	BZ	08/06/08					01/20/10	
2854	Lehigh Gas Corporation	3	NEDO	TK	JK	SF	09/03/09					01/20/10	

Total for the month of January = 10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

February

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2817	S. H. Bell Company (Little England and Stateline facilities)	3	NEDO	TK	JO	MG	04/21/09					02/08/10	
2887	Kimberly Dailey	3	SWDO	JP	EY	SF	01/07/10					02/01/10	
2671	Mar-Zane, Inc. (Plant 1)	3	CDO	JP	JP	MG	10/25/07						02/18/10

Total for the month of February = 3

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

March

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2685	Quikrete-Cleveland	3	Akron	TK	UD	DV	12/14/07					02/26/10	
2731 (112r)	H. B. Fuller Company	3	N/A	TK	KJ	DV	06/04/08					03/10/10	
2824	Ariel Corporation	3	CDO	JP	EY	MG	05/18/09					03/09/10	
2834	Foti Contracting, LLC	3	Akron	TK	FU	MG	06/29/09					03/10/10	
2879 (112r)	City of Youngstown, Wastewater Treatment Plant	3	N/A	TK	SS	MG	12/04/09					03/10/10	
2901	Rumpke Sanitary Landfill, Inc.	3	HAMCO	TK	JO	BZ	03/01/10					03/18/10	
2527	Carmeuse Lime, Inc. (Maple Grove Facility)	3	NWDO	TK	FU	DV	06/19/06					03/19/10	
2820	Bailey-PVS Oxides Delta LLC.	3	NWDO	TK	JK	MG	04/27/09					03/19/10	

Total for the month of March = 8

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

April

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2722	Tuscarawas County YMCA (asbestos)	3	SEDO	TK	UD	BZ	05/05/08					04/02/10	
2827	Evelyn M. Koch	1	MTAPCA	TK	UD	MG	06/01/09			Closed-NFA	04/08/10		
2856	Dorothy Jeannine Slessman	1	NWDO	TK	MM	MG	09/14/09			Closed-NFA	04/08/10		
2865	The Great Lakes Construction Co.	3	HAMCO	TK	UD	DV	09/25/09					04/02/10	
2871	MARA2-DNA Inc., d.b.a. Nates Marathon	3	NEDO	TK	JK	SF	10/15/09					04/02/10	
2899	Servestal Wheeling, Inc./Mingo Junction Energy Center, LLC	3	SEDO	TK	JO	BZ	02/01/10					03/30/10	
2806	Raman Patel, d.b.a. Marathon Quick Mart	3	NEDO	TK	JK	DV	03/02/09					04/20/10	

Total for the month of April = 7

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

May

Docket #	Case Name	Rank	Field Office	EC Contact	Staff Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO

Total for the month of May = 0

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

June

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2814	Barrett Paving Materials, Inc. (HPV)	3	HAMCO	TK	PP	SF	04/01/09					06/02/10	
2822	J. S. Paris Excavating, Inc. (asbestos)	3	MTAPCA	TK	TT	SF	04/28/09					06/02/10	
2839	John Harb, Liberty Gas USA #10, Liberty Gas, JS Solon LLC., Plaxy, Inc.	3	NEDO	TK	JK	DV	07/21/09						05/27/10
2857	Pure Gas Incorporated	3	NEDO	TK	JK	SF	09/22/09					05/28/10	
2869	Bridgestone APM Company, Foam Products Division (HPV)	3	NWDO	JP	EY	DV	10/06/09					05/28/10	
2916	Heartland Refinery Group, LLC	3	CDO	JP	JP	MG	05/13/10						06/07/10

Total for the month of June = 6

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2010

July

Docket #	Case Name	Rank	Field Office	EC Contact	Staff Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2844	Iten Industries, Inc. (Plant 1)	3	NEDO	TK	MM SF	07/28/09					06/23/10	

Total for the month of July = 1

Summary of Compliance with Effective Findings and Orders

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Ball & Sons Construction (11/08/96)	Civil penalty: (\$1,000)	563513	11/22/96	Y	FSC**	

Smith Foundry & Machine Co. (12/31/96)	Civil penalty: (\$25,000)					
	\$5,000	530404	01/31/97		01/23/97	
	\$5,000	530405	01/31/98		01/23/98	
	\$5,000	530406	01/31/99	Y	01/19/99	
	\$5,000	530407	01/31/00	Y	ACT**	
	\$5,000	541831	01/31/01		ACT**	
	AC		01/15/97		N/A*	
	IC		06/16/97		N/A*	
	CC		08/15/97		N/A*	
	Conduct emission tests - submit results		10/15/97		N/A*	
* The cupola has been removed. The 12/96 F&O's were revised to reflect the installation of electric induction furnaces rather than controls for the cupola. The facility has been permanently shut down since some time in 2006. Incorporation status w/ Secretary of State was dissolved in 2006.						

Mark Fuerst (02/08/00)	Civil penalty: (\$10,000)					
	OEPA \$2,000	172154	04/08/00	Y	FSC**	
	\$2,000	172155	05/08/00	Y	*	
	\$2,000	172156	06/08/00	Y	FSC**	
	\$2,000	172157	07/08/00	Y	FSC**	
	ODNR \$2,000	606212	03/08/00	Y	FSC**	
* Paid \$1,654 on 2/10/09. \$165.40 of that amount was paid to AGO.						

American Environmental Abatement Company, Inc. (12/29/00)	Civil penalty: (\$2,500)					
	OEPA \$2,000	206005	01/12/01		01/16/01	
	ODNR \$500	564224	01/29/01			

Anco Properties (06/19/01)	Civil penalty: (\$23,000)					
	OEPA \$4,600	224714	09/19/01	Y	FSC**	
	\$4,600	224715	12/19/01	Y	FSC**	
	\$4,600	224716	03/19/02	Y	FSC**	
	\$4,600	224717	06/19/02	Y	FSC**	
	ODNR \$4,600	613129	07/19/01	Y	FSC**	

Superior Demolition and Excavating (12/28/01)	Civil penalty: (\$15,000)					
	OEPA \$3,000	270396	01/28/02		02/11/02	
	\$3,000	270397	02/28/02		03/14/02	
	\$3,000	270398	03/28/02		04/23/02	
	\$3,000	270399	04/28/02	Y	UNC**	
	ODNR \$3,000	270395	01/11/02		01/10/02	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Richard and Joby Hackett (04/04/02)	Civil penalty: (\$3,000)					
	OEPA	\$ 150	279226	09/04/02	Y	RTN**
		\$ 150	279227	10/04/02	Y	RTN**
		\$ 150	279228	11/04/02	Y	RTN**
		\$ 150	279229	12/04/02	Y	RTN**
		\$ 150	279230	01/04/03	Y	RTN**
		\$ 150	279231	02/04/03	Y	RTN**
		\$ 150	279232	03/04/03	Y	RTN**
		\$1,350	279233	04/04/03	Y	RTN**
	ODNR	\$ 150		05/04/02		
		\$ 150		06/04/02		
	\$ 150		07/04/02			
	\$ 150		08/04/02			

Schloss Materials Company (09/18/02)	Civil penalty: (\$6,000)					
	OEPA	\$4,000	304257	10/02/02		09/30/02
	ODNR	\$2,000	564243	10/18/02	N	
		pave entrance & access road to facility		10/31/02		06/03/04*

City of Oregon (09/16/02)	Civil penalty: (\$10,000)					
	OEPA	\$8,000	304257	09/30/02		09/30/02
	ODNR	\$2,000	564243	09/30/02	N	
		conduct asbestos fire training		02/01/03		01/18-14-15&29/03

Cleveland Industrial Drum Servic Service, Inc. (10/30/02)	Civil penalty: (\$1,000)					
	OEPA	\$800	314152	11/13/02		06/24/03
	ODNR	\$200	564255	11/30/02	N	

M & J Excavating (11/27/02)	Civil penalty: (\$2,450)					
	OEPA	\$392	333074	01/27/03	Y	09/27/03
		\$392	333075	02/27/03	Y	10/25/03*
		\$392	333076	03/27/03	Y	UNC
		\$392	333077	04/27/03	Y	01/24/04*
		\$392	333078	05/27/03	Y	01/24/04*
	ODNR	\$490	564257	12/27/02		09/25/02

Chris Corso (12/02/02)	Civil penalty: (\$7,000)					
	OEPA	\$1,600	319940	12/16/02		12/16/02
		\$2,000	319941	03/02/03		09/04/03
		\$2,000	319942	06/02/03		09/27/03
	ODNR	\$1,400	614162	01/02/03	N	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Goldline Wrecking Co. (12/23/02)	Civil penalty: (\$35,000)					
	OEPA	\$ 8,000	333227	04/23/03		06/30/04*
		\$10,000	333228	12/23/03	Y	10/27/08**
		\$10,000	333229	06/23/04	Y	10/27/08**
	ODNR	\$ 7,000		01/23/03		01/22/03

* The AGO Special Counsel collected \$8,134.92. The AGO kept \$723.13 of that amount.

** Ohio EPA agreed to a payment of \$13,150 to satisfy the remaining claim of \$20,000. Special counsel received \$4,339.50 and the AGO received \$1,183.50 of the \$13,150 for their collection services.

Glo-Mar Masonry (02/06/03)	Civil penalty: (\$8,500)					
	EPA	\$ 500	336723	03/06/03	Y	06/23/03
		\$2,100	336724	06/06/03	Y	01/24/04
		\$2,100	336725	08/06/03	Y	04/24/04
		\$2,100	336726	02/06/04	Y	03/26/05*
	ODNR	\$1,700	583375	03/06/03	Y	

* Account Certified to AGO. Three partial payments made totaling (\$680), still owe \$1,419.40

Ford Motor Company, Cleveland Casting Plant (12/24/03)	Civil penalty: (\$40,000)					
		Submit modeling analysis	413303	01/31/04		01/07/04
				02/29/04		

Minerva Enterprises, Inc. (12/31/03)	Civil penalty: (\$41,125)					
		\$3,500	413351	01/31/04	Y	07/29/04a
		\$3,500	413352	03/02/04	Y	06/16/05b
		\$3,500	413353	04/02/04	Y	08/12/05c
		\$3,500	413354	05/03/04	Y	06/15/05d
		\$3,500	413355	06/03/04	Y	07/22/05e
		\$3,500	413356	07/04/04	Y	08/12/05f
		\$3,500	413357	08/04/04	Y	07/23/04
		\$3,500	413358	09/04/04	Y	12/24/05h
		\$3,500	413359	10/04/04	Y	12/24/05
		\$3,500	413360	11/04/04		07/29/05
	\$3,500	413361	12/04/04	Y	11/10/05	
	\$2,625	413362	01/04/05	Y	12/05/05i	

a. Paid \$3,501.92, of which \$315.17 was kept by AGO and \$3,186.75 was put into OEPA's account. The remaining \$1.92 is interest charged.

b. Paid \$53.70 to resolve this claim. \$4.83 of that amount was AGO's share. \$48.87 was put in OEPA's account.

c. Paid \$831.54 to resolve this claim. \$74.84 of that amount was AGO's share. \$756.70 was put in OEPA's account.

d. Paid \$3,574.03 to resolve this claim. \$321.66 of that amount was AGO's share. \$3,252.37 was put in OEPA's account.

e. Paid \$2,211.00 to resolve this claim. \$198.99 of that amount was AGO's share. \$2,012.01 was put in OEPA's account.

f. Paid \$3,903.47 to resolve this claim. \$351.31 of that amount was AGO's share. \$3,552.16 was put in OEPA's account.

h. Paid \$3,500 to resolve this claim. \$315 of that amount was AGO's share. \$3,185 was put in OEPA's account..

i. Paid \$1,141.96 to resolve claim. \$102.78 of that amount was AGO's share. \$1,039.18 was put in OEPA's account.

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
Hydraulic Press Brick (04/28/04)	Civil penalty: (\$19,000)						
	\$7,000	439209	05/12/04		05/12/04		
	\$7,000	439210	08/12/04		05/12/04		
	Submit P ² reports			07/28/04		07/26/04	
				10/28/04		10/25/04	
				01/28/05		01/21/05	
			03/28/05		N/A		
Submit cost of P ² study		04/05/05					

Kerry's Motor World (05/13/04)	Civil penalty: (\$3,000)	443684	05/27/04	Y			

John Dubuk (12/29/04)	Civil penalty: (\$10,000)						
	\$834	489979	01/28/05		01/24/05		
	\$834	489980	02/27/05		02/24/05		
	\$834	489981	03/29/05		03/26/05		
	\$834	489982	04/28/05	Y	07/29/06		
	\$834	489983	05/28/05	Y	UNC**		
	\$834	489984	06/27/05	Y	07/29/06		
	\$834	489985	07/27/05	Y	UNC**		
	\$834	489986	08/26/05	Y	UNC**		
	\$834	489987	09/25/05	Y	UNC**		
	\$834	489988	10/25/05	Y	UNC**		
	\$834	489989	11/24/05	Y	UNC**		
	\$826	489990	12/24/05	Y	UNC**		

C & J Contractors (12/21/04)	Civil penalty: (\$5,600)	479998	01/21/05	Y		*	
* This account is Certified and still open--various payments have been made (10/05-05/06) totaling \$2,150, leaving a balance of \$3,450.							

Bohanan Investments, Inc. (04/14/05 - Court Order, Default Judgement)	Civil penalty: (\$127,900)	550712	04/14/05	Y			

Columbus Steel Drum (07/06/05 - Consent Order)	Civil penalty: (\$500,000)						
	Bus Fund \$25,000	514606	07/31/05		09/20/05		
	\$25,000	514607	10/01/05		10/12/05		
	\$25,000	514608	01/01/06		02/08/06		
	\$25,000	514609	04/01/06		04/21/06		
	OEPA \$25,000	514163	07/01/06		07/10/06		
	\$25,000	514164	10/01/06		10/30/06		
	\$25,000	514165	01/01/07		01/09/07		
\$25,000	514166	04/01/07		04/11/07			

Facility Name	Milestone or Requirement*	Revenue	Deadline	C	Complete	Check	
		ID	in F&O	y/n	Date	# / Date	
Columbus Steel Drum (con't) (07/06/05 - Consent Order)	OEPA	\$25,000	514167	07/01/07		08/01/07	
		\$25,000	514168	10/01/07		10/17/07	
		\$25,000	514169	01/01/08		03/12/08	
		\$25,000	514170	04/01/08		04/15/08	
		\$25,000	514171	07/01/08		07/01/08	
		\$25,000	514172	10/01/08		10/01/08	
		\$25,000	514173	01/01/09		04/08/09	
		\$25,000	514174	04/01/09		07/17/09	
		\$21,250	514175	07/01/09		10/15/09	
		\$21,250	726464	09/01/09		12/01/09	
		\$21,250	726465	11/01/09		11/30/09	
		\$21,250	726466	12/01/09			
		Submit PTI app for K001-K003			12/01/09		05/31/05
		Award contracts		30 days from issuance of PTI			
		IC		60 days from issuance of PTI			07/16/06
		CC		180 days from issuance of PTI			07/13/07
		Perform stack tests		210 days from issuance of PTI			07/03/07
		Submit ITT for P015 & P016			07/20/05		06/07/05
		Perform stack tests			12/27/05		06/23/05
	Submit PTI app for P015 & P016			30 days after submission of test		09/22/05	
	Award contracts		30 days from issuance of PTI			*	
	IC		60 days from issuance of PTI			*	
	CC		120 days from issuance of PTI			*	
	Perform stack tests		150 days from issuance of PTI			*	
	Perform stack tests for P001, P005, P012 & P013			09/06/05		07/5-7/05	
* PTI not issued due to the continued incomplete nature of the PTI application.							

Alfred Nickles Bakery, Inc. (08/24/05)	Civil penalty: (\$37,800)						
	OEPA	\$10,240	519964	09/24/05		09/23/05	
	Bus Fund	\$ 7,560	519965	09/24/05		09/23/05	
	Submit P ² report			11/24/05			
	Submit P ² report			02/24/06			
	Submit final P ² report			05/24/06			
	Submit documentation of costs			08/24/06			

Shell Construction, Inc. (09/26/05)	Civil penalty: (\$3,700)						
	OEPA	\$100	526004	10/26/05		09/27/05	
		\$100	526005	11/25/05		11/10/05	
		\$100	526006	12/25/05		12/20/05	
		\$100	526007	01/24/06		10/28/06	
		\$100	526008	02/23/06		10/28/06	
	\$100	526009	03/25/06		10/28/06		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Shell Construction, Inc. (con't) (09/26/05)	\$100.00	526010	04/24/06		09/13/06	
	\$100.00	526011	05/24/06		09/13/06	
	\$100.00	526012	06/23/06		09/13/06	
	\$100.00	526013	07/23/06		09/13/06	
	\$100.00	526014	08/22/06		11/02/06	
	\$100.00	526015	09/21/06		11/02/06	
	\$100.00	526016	10/21/06		11/02/06	
	\$100.00	526017	11/20/06		11/02/06	
	\$100.00	526018	12/20/06		11/14/06	
	\$100.00	526019	01/19/07		11/30/06	
	\$100.00	526020	02/18/07		11/30/06	
	\$100.00	526021	03/20/07		12/18/06	
	\$100.00	526022	04/19/07		01/10/07	
	\$100.00	526023	05/19/07		02/02/07	
	\$100.00	526024	06/18/07		03/01/07	
	\$100.00	526025	07/18/07		03/12/07	
	\$100.00	526026	08/17/07		05/07/07	
	\$100.00	526027	09/16/07		06/27/07	
	\$100.00	526028	10/16/07		06/27/07	
	\$100.00	526029	11/15/07		06/27/07	
	\$100.00	529030	12/15/07		06/27/07	
	\$100.00	526031	01/14/08		08/13/07	
	\$100.00	526032	02/13/08		08/13/07	
	\$100.00	526033	03/14/08		10/24/07	
	\$100.00	526034	04/13/08		10/24/07	
	\$100.00	526035	05/13/08		10/24/07	
	\$100.00	526036	06/12/08	Y	05/07/09	
	\$100.00	526037	07/12/08	Y		
	\$100.00	526038	08/11/08	Y	05/07/09	
	\$100.00	526039	09/10/08	Y	05/07/09	
\$100.00	526040	10/10/08	Y			

Environmental Affairs Management (12/29/05)	Civil penalty: (\$10,000)					
	OEPA \$1,000	541425	03/29/06		03/06/06	
	\$1,000	541426	03/29/06	Y	FSC**	
	\$1,000	541427	05/28/06	Y	FSC**	
	\$1,000	541428	06/27/06	Y	12/28/07	
	\$1,000	541429	07/27/06	Y	FSC**	
	\$1,000	541430	08/26/06	Y	FSC**	
	\$1,000	541431	09/25/06	Y	FSC**	
	\$1,000	541432	10/25/06	Y	ACT**	
	Bus Fund \$1,000	541433	01/28/06		01/25/06	
	\$1,000	541434	02/27/06		02/25/06	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Cargill, Incorporated (03/03/06 - Consent Decree) * - CD modification on 11/26/08	Civil penalty: (\$61,538)					
	OEPA	\$30,769	551695		03/27/06	04/03/06
	RAPCA	\$30,769	----		03/27/06	03/29/06
	Pay Title V permit fees	\$216,133.86			02/27/06	09/28/05
	Contribute \$75,000 to RAPCA's wood stove replacement program				04/15/06	03/21/06
	Retire B005				09/01/07	09/14/06
	Install LNB & FGR for B006				03/03/11	
	Propose final VOC solvent loss limit for Sidney				02/27/09	
	Comply w/final VOC solvent loss limit for Sidney				02/27/10	
	Meet 95% control for VOC or 10 ppm for P067 & P582 at Dayton				02/27/09	06/17/08
	Meet 98% control for VOC for P057, P031, P052, P088 & P072 at Dayton				09/01/10	
	Meet control equipment operating parameters for P032, P033 and P034 at Dayton				02/28/10 *	02/26/10
	Test and establish an allowable short-term VOC limit for each scrubber stack serving P032, P033 and P034 at Dayton				02/28/10 *	02/26/10
	Submit permit apps for P032, P033 and P034 at Dayton to incorporate control equipment operating parameters and VOC emission limits				09/01/10 *	
	Submit PTI app to cap VOC and NOx emissions from Dayton at less than 854 tons/yr				09/01/10 *	
	Comply w/ emission cap for Dayton				09/01/10	
	Submit odor control optimization report for Dayton				09/01/06	08/29/06
	Meet 90% control for CO or 100 ppm for P067 and P582 at Dayton				02/27/09	06/17/08
	Meet 90% control for CO or 100 ppm for P057, P031, P052, P088 & P072				09/01/10	

Sunoco, Inc. (03/20/06-Consent Decree)	SEP Project (\$50,000)					
	Pay contractor for project				04/20/06	08/01/06
	Install SCR for FCCU				12/31/09	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Sunoco, Inc. (con't) (03/20/06-Consent Decree)	Install WGS for FCCU		12/31/09			
	Comply w/ NSPS for SO ² and opacity for FCCU		12/31/09			
	Comply w/ NSPS for PM for FCCU		03/20/06		03/20/06	
	Comply w/ NSPS for CO for FCCU		03/20/08		03/27/08	
	Reduce NOx emissions from heaters & boilers greater than 40mm Btu/hr by at least 2,189 tons/yr		03/20/14			
	Achieve 2/3 of 2,189 tons/yr NOx		03/20/10			
	Submit a detailed NOx Control Plan		07/20/06		07/05/06	
	Install a second Claus train & 2 TGUs at the SRP		12/31/09			
	Submit optimization study for the SRP		09/20/06		09/10/06	
	Implement recommendations of optimization study for SRP		03/20/07		03/12/07	
	Propose interim performance standards for SRP		03/20/07		03/12/07	
	Submit enhanced O & M plans for SRP and TGUs		09/20/06		09/08/06	
	Submit Phase One review and verification of the TAB and BWON compliance status for 2 refineries		11/20/06		11/03/06	
	Modify procedures for annual review of process information for benzene waste streams		09/20/06		08/01/06	
	Implement annual benzene training for employees		06/20/06		06/08/06	
	Develop SOPs for all benzene control equipment		09/20/06		09/08/06	
	Submit schematics for waste/slop/off-spec oil streams		05/20/06		05/11/06	
	Develop and submit written LDAR		09/20/06		09/08/06	
	Implement an LDAR training program		03/20/07		03/14/07	
	Perform LDAR compliance audit		12/20/06		12/07/06	
	Develop QA & QC procedures for LDAR monitoring		07/20/06		07/11/06	
	Develop LDAR personnel accountability program		09/20/06		09/08/06	
	Submit application to revise Title V permit to incorporate CD requirements		09/20/06		10/31/06	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
David Scholl (09/25/06)	Civil penalty: (\$400)	584589	10/25/06		12/11/06* 05/26/07*	3106 AGO
* Made a partial payment of \$200 on 12/11/06. \$200 was certified to AGO. A payment of \$180 + \$20 for AGO was made on 5/26/07						
Alpha-Omega Chemical Co. (12/14/06)	Civil penalty: (\$4,000)					
	OEPA \$1,000	605635	05/14/07		08/20/07	3740
	\$1,000	605636	09/14/07	Y		
	\$1,200	605637	12/14/07	Y		
	Bus Fund \$ 800	605638	01/14/07	Y	07/29/07	AGO
Gas and Oil, Inc. (03/14/07)	Civil penalty: (\$10,000)					
	OEPA \$8,000	607778	06/14/07	Y	BSC	
	Bus Fund \$2,000	607779	06/14/07	Y	BSC	
	Submit ITT		04/14/07			
	Conduct tests for #2, #3, #15 & #19		06/14/07			
	Submit test results		07/14/07			
	Submit PTO renewal application for #19		04/14/07			
Robert Henry and April Garner (07/11/07)	Civil penalty: (\$1,000)	616290	08/11/07	Y	ACT	
Eslich Wrecking Company (07/16/07 - Consent Order)	Civil penalty: (\$44,853) (\$44,853 = 45% of \$99,674)	623581	08/16/07		8/20/2007	65208
	Submit survey and plan to install protective physical barrier		08/16/07			
	Install cap				w/i 60 days of OEPA approval of survey & plan	
	Grant a new deed				w/i 30 days of OEPA approval of survey	
Avalon Cleaners (08/21/07)	Civil penalty: (\$1,000)					
	OEPA \$250	624475	09/21/07	Y		
	\$250	624476	10/21/07	Y		
	\$250	624477	11/21/07	Y		
	\$250	624478	12/21/07	Y		
	Submit records & documentation		01/31/08			
	Submit records & documentation		07/31/08			
Tim Weiland (09/06/07)	Civil penalty: (\$250)	624378	10/06/07	Y	SKP	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Alfred Nickles Bakery, Inc. (11/08/07)	Civil penalty: (\$60,250)					
	OEPA \$46,200	634724	12/08/07		11/02/07	222582
	Bus Fund \$14,050	634725	12/08/07		11/02/07	222583
	Submit P2 report		02/08/07			
	Submit P2 report		05/08/07			
	Submit P2 report		08/08/07			
	Submit final P2 report		10/08/07			
	Submit cost documentation		w/i 30 days of approval of report by OEPA			
The Premcor Refining Group, Inc. (11/20/07 - Consent Decree)	Civil penalty: (\$800,000)					
	OEPA \$640,000	634775	12/20/07		12/19/07	52080919
	Bus Fund \$160,000	634776	12/20/07		12/19/07	52080918
	Submit plan to meet .060 lb NOx/MMBtu for heaters and boilers		12/31/08		12/10/08	
	Install controls to meet .060 lb NOx/MMBtu for heaters and boilers		12/31/11			
	Submit plan to meet .044 lb NOx/MMBtu for heaters and boilers		12/31/10			
	Install controls to meet .044 lb NOx/MMBtu for heaters and boilers		12/31/13			
	Submit report that demonstrates compliance with limits for heaters & boilers		03/31/12		03/31/14	
	Submit report re: the NOx concentration emissions for the FCCU thru optimization of O2 CS		03/01/12			
	Submit report that demonstrates compliance w/ <u>interim</u> NOx system-wide average for FCCUs		03/31/11			
	Submit report that demonstrates compliance w/ final Nox system-wide average for FCCUs		03/31/14			
	Commence implementation of SO2 ad-sorbing catalyst additive protocol for FCCU		11/20/07		09/07/07	
	Comply w/ CO emission limit for FCCU		02/20/08		11/20/07	
	Comply w/ opacity and PE limits for FCCU		12/31/13			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O y/n	C Complete Date	Check # / Date	
The Premcor Refining Group, Inc. (Con't)	Submit alternative monitoring plan application for NSPS subpart J monitoring for SO2 at FCCU		12/31/08	12/19/08		
	Discontinue burning of fuel oil in heaters and boilers		11/20/07	08/16/07		
	Determine compliance w/ 6 BQ compliance option & submit a Benzene Waste NESHAP Compliance Review and Verification Report		03/01/08	03/14/08		
	Submit a report re: carbon canisters installed pursuant to Subpart FF		02/20/08	02/12/08		
	Develop annual training program for employees that draw benzene waste samples		02/20/08	03/19/08		
	Develop SOPs for all control equipment used to comply w/ Benzene Waste NESHAP and complete initial training re: SOPs		11/20/08	05/19/08* 02/12/09*		
				* Develops SOP	** Training	
	Develop and implement procedures to ensure QA/QC for all LDAR data		02/20/08	01/25/08		
	Develop program to hold LDAR personnel accountable for LDAR performance		11/20/07	06/28/07		
	Establish a tracking program for valves and pumps that should be added to LDAR program		11/20/08	01/25/08		
	Reroute any SRP sulfur pit emissions to eliminate emissions		11/20/08	11/03/08		
	Provide description of causes of all acid gas flaring incidents from 1/1/02 thru 12/31/06		11/20/08	08/11/08		
	Submit compliance plan for flaring devices		12/30/09	12/18/09		
	Certify compliance for all flaring devices		12/31/13			
	Complete design of compressor system for P025		12/20/07	01/03/08		
	Complete installation of compressor system for P025		04/01/08	04/01/08		
	Submit T5 permit applications to incorporate emission limits required by Consent Decree		12/31/07	06/12/08		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
The Premcor Refining Group, Inc. (Con't)	Pay \$200,000 to develop and implement a Traffic Signal Synchronization study for City of Lima		02/20/08		1/25/08 04/26/10 (final disbursement)	1007
	Install controls for unregulated and uncontrolled relief vents at Refinery (spend \$675,000 for SEP)		12/30/09			
	Submit plan for the Lima Infrared Camera Imaging Project (spend \$50,000 for SEP)		02/20/08		02/12/08	
	Transfer \$200,000 to LADCO for PM 2.5 specification		02/20/08		01/18/08	
	Transfer \$50,000 to Ohio Environmental Council for control of emissions from municipal trucks and buses		02/20/08		01/18/08	

E. I. Du Pont de Nemours & Company (11/06/07 - Consent Decree)	Civil penalty: (\$550,000)					
	OEPA \$440,000	634777	12/06/07		12/19/07	2735686
	Bus Fund \$110,000	634778	12/06/07		12/19/07	2735686
	Comply w/ short-term SO2 emission limit of 2.2 lbs/ton		03/01/11			
	Comply w/ Mass Cap of 281 TPY		03/01/13			
	Submit proposed O&M Plan for short-term SO2 limit		11/01/10			
	Submit a complete T5 permit application for Consent Decree SO2 limits		09/01/11			

Converters Prepress (12/06/07 - Consent Order)	Civil penalty: (\$5,004)					
	OEPA \$139	644190	01/06/08		02/22/08	4787
	\$139	644191	02/06/08		03/26/08	
	\$139	644192	03/06/08		03/26/08	5024
	\$139	644193	04/06/08		04/04/08	5072
	\$139	644194	05/06/08		05/05/08	5159
	\$139	644195	06/06/08		05/30/08	5207
	\$139	644196	07/06/08		07/14/08	5279
	\$139	644197	08/06/08		08/04/08	5349
	\$139	644198	09/06/08		08/29/08	5411
	\$139	644199	10/06/08		09/29/08	5490
	\$139	644200	11/06/08		11/06/08	5557
	\$139	644201	12/06/08		12/02/08	5617
	\$139	644202	01/06/09		12/30/08	5696
\$139	644203	02/06/09		02/09/09	5763	
\$139	644204	03/06/09		03/11/09	5818	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Converters Prepress (con't) (12/06/07 - Consent Order)	\$139	644205	04/06/09		03/31/09	1000
	\$139	644206	05/06/09		05/05/09	8041
	\$139	644207	06/06/09		06/01/09	8071
	\$139	644208	07/06/09		07/06/09	8113
	\$139	644209	08/06/09		08/07/09	8178
	\$139	644210	09/06/09		08/24/09	8256
	\$139	644211	10/06/09		09/28/09	8316
	\$139	644212	11/06/09		10/27/09	8368
	\$139	644213	12/06/09		11/24/09	8427
	\$139	644214	01/06/10		12/28/09	8474
	\$139	644215	02/06/10		01/25/10	8521
	\$139	644216	03/06/10		02/24/10	8572
	\$139	644217	04/06/10		03/29/10	8634
	\$139	644218	05/06/10		04/27/10	117
	\$139	644219	06/06/10			
	\$139	644220	07/06/10			
	\$139	644221	08/06/10			
	\$139	644222	09/06/10			
	\$139	644223	10/06/10			
	\$139	644224	11/06/10			
	\$139	644225	12/06/10			

Real Spaces Property for Rent (12/31/07)	Civil penalty: (\$17,700)					
	OEPA \$ 600	645338	01/30/08		02/07/08	11
	\$ 600	645339	02/29/08		03/12/08	56
	\$ 600	645340	03/30/08		05/05/08	503
	\$ 600	645341	04/29/08		06/09/08	205
	\$ 600	645342	05/29/08		07/03/08	285
	\$ 600	645343	06/28/08		08/04/08	319
	\$ 600	645344	07/28/08		09/11/08	373
	\$ 600	645345	08/27/08		11/17/08	493
	\$ 600	645346	09/26/08		01/13/09	561
	\$ 600	645347	10/26/08	Y	01/27/10*	AGO
	\$ 600	645348	11/25/08	Y		
	\$ 600	645349	12/25/08	Y		
	\$ 600	645350	01/24/09	Y		
	\$ 600	645351	02/23/09	Y		
	\$ 600	645352	03/25/09	Y		
	\$ 600	645353	04/24/09	Y		
	\$ 600	645354	05/24/09	Y		
	\$ 600	645355	06/23/09	Y		
	\$3,360	645356	07/23/09	Y		
	Bus Fund \$3,560	645357	07/23/09	Y		

* Partial pymt of \$300 made, of which \$30 went to AGO.

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Christopher Vincent (02/15/08)	Civil penalty: (\$1,000)	653134	03/16/08	Y	ACT	
James Brown 3/11/2008	Civil penalty: (\$750)	653125	04/11/08	Y	ACT	
Bates Recycling, Inc. (06/04/08)	Civil penalty: (\$1,000)	657594	06/18/08	Y		
Craig Eddy (06/04/08)	Civil penalty: (\$750)	657302	07/04/08	Y		
Warren Ropp (06/02/08)	Civil penalty: (\$250)	657293	07/02/08	Y		
JR's Truck Parts (06/02/08)	Civil penalty: (\$500)	657294	07/02/08	Y		
Peter Backer (07/01/08)	Civil penalty: (\$750)	657790	07/31/08	Y		
W. A. Miller (07/16/08)	Civil penalty: (\$1,000) * Partial payment of \$350 received 10/20/08	666334	08/16/08	Y	*	AGO
Lanny Reynolds (07/16/08)	Civil penalty: (\$750)	666335	08/16/08	Y		
Lance Dudgeon (07/09/08)	Civil penalty: (\$500)	659540	08/09/08	Y		
Johnathan Strickland (07/16/08)	Civil penalty: (\$2,000)	666331	08/16/08	Y		
Luci, Inc. (07/08/08)	Civil penalty: (\$10,000)					
	OEPA \$8,000	659538	08/08/08	Y		
	Bus Fund \$2,000	659539	08/08/08	Y		
Ford Motor Company (07/31/08)	Civil penalty: (\$1,400,000)					
	OEPA \$1,120,000	666337	08/31/08		08/18/08	
	Bus Fund \$ 280,000	666338	08/31/08		08/18/08	
	Shut down cupola 3 and mold line 7		12/31/08		12/11/08	
	Shut down cupola 1 & 2 and mold lines 2 & 3		12/31/10			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Douglas Kehres (08/13/08)	Civil penalty: (\$500)	666363	09/13/08	Y		

Great Lakes Crushing Ltd. (10/01/08)	Civil penalty: (\$12,000)					
	OEPA \$9,600	686990	10/31/08	Y	09/10/09*	AGO
	Bus Fund \$2,400	686991	10/31/08	Y	04/23/09*	AGO
* Paid the \$9,600 plus \$1,095.45 in interest to AGO Revenue recovery. AGO took \$1,069.55 for its collection efforts. ** AGO took \$240 of this amount for its collect efforts.						

Robert Montgomery, Sr., d.b.a. Montgomery Auto Salvage (10/16/08)	Civil penalty: (\$3,000)	688462	11/15/08	Y		

Re-Gen, Inc. (01/15/09 - Consent Order)	Civil penalty: (\$70,000)					
	OEPA \$28,000	709526	02/14/09		02/11/09	4969
	\$28,000	709527	01/15/10		01/27/10	5049
	Bus Fund \$ 7,000	709528	02/14/09		02/11/09	4968
	\$ 7,000	709529	01/15/10		01/29/10	5048
	Submit complete approvable synthetic minor PTIO app.		w/i 60 days of resuming operations			
	Submit FERs for 1999-2007 & pay \$8,000 in past emission		upon receipt of invoice from OEPA		06/12/09	

Ultimate Industries, Inc. (02/05/09 - Consent Order)	Civil penalty: (\$4,200)					
	OEPA \$175	712529	03/05/09		05/12/09	4218185919
	\$175	712530	04/05/09		06/15/09	1208192010
	\$175	712531	05/05/09		08/07/09	4218194475
	\$175	712532	06/05/09		09/28/09	4218184520
	\$175	712533	07/05/09			
	\$175	712534	08/05/09			
	\$175	712535	09/05/09			
	\$175	712536	10/05/09			
	\$175	712537	11/05/09			
	\$175	712538	12/05/09			
	\$175	712539	01/05/10			
	\$175	712540	02/05/10			
	\$175	712541	03/05/10			
	\$175	712542	04/05/10			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
Ultimate Industries, Inc. (con't)	\$175	712543	05/05/10				
	\$175	712544	06/05/10				
	\$175	712545	07/05/10				
	\$175	712546	08/05/10				
	\$175	712547	09/05/10				
	\$175	712548	10/05/10				
	\$175	712549	11/05/10				
	\$175	712550	12/05/10				
	\$175	712551	01/05/11				
	\$175	712552	02/05/11				

Brush Wellman, Inc. (03/24/09)	Civil penalty: (\$40,000)						
	OEPA \$28,000	711745	04/24/09		03/26/09	101226491	
	Bus Fund \$12,000	711746	04/24/09		03/26/09	101226492	
	Install 3 TRIBO.d2 particulate emission monitors		09/24/09		09/16/09		
	Submit documentation of SEP cost		10/24/09		10/13/09		

Chemtrade Logistics Inc/Marcule (04/02/09 - Consent Decree)	Civil penalty: (\$120,000)						
	OEPA \$72,000	712639	05/02/09		05/26/09	280088323	
	Bus Fund \$24,000	712640	05/02/09		05/26/09	280088325	
	ODNR \$24,000		05/02/09				
	Comply w/ short-term and long-term SO2 emission rates:	Oregon		07/01/11			
		Cairo		07/01/11			
	Comply w/ acid mist emission rate:	Oregon		04/02/09			
		Cairo		07/01/11			
	Install SO2 CEMS:	Oregon		07/01/11			
		Cairo		07/01/11			
	Perform compliance tests:	Oregon		07/01/11			
		Cairo		07/01/11			
	Submit O&M Plans:	Oregon		07/01/11			
		Cairo		07/01/11			
	Submit permit applications:	Oregon		07/01/11			
Cairo			07/01/11				
			01/01/13				
		Oregon	(365 days after acceptance of short-term limit)				
		Cairo					
Submit report re: how compliance will be	Oregon		07/01/11				
	Cairo		07/01/11				

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Lagrange Township Trustees (04/14/09)	Civil penalty: (\$250) Report the results of vehicle inspections	713233	05/14/09 12/31/09	Y	07/26/09 04/20/09	23728
George Rank (04/16/09)	Civil penalty: (\$500)	713237	05/16/09	Y		
Richard Morrow (05/01/09)	Civil penalty: (\$3,000)	713246	05/15/09	Y		
Container Recyclers, Inc. (d.b.a. Columbus Steel Drum) (06/08/09 Amended Consent Order for stipulated penalties)	Civil penalty: (\$87,050) OEPA \$21,762.50 \$21,762.50 \$21,762.50 Bus Fund \$10,881.25 \$10,881.25	713429 713430 713431 713432 713433	10/23/09 01/18/10 04/16/10 06/05/09 07/17/09		10/21/09 04/09/10 06/01/09 07/16/09	22101 22441* 21779 21859
* A partial payment of \$18,525 was made-- they received a letter from AGO stating they had previously overpaid-Fiscal is straightening this out.						
Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: (\$240,000) OEPA \$192,000 Bus Fund \$ 48,000 Submit either a Title V permit app or synthetic minor PTI/FESOP appl. (FEPTIO appl.)	714631 714632	07/01/09 07/17/09 10/17/09		08/21/09 08/21/09 10/12/09	6000197973 6000197973
T. S. Trim Industries, Inc. (06/17/09)	Civil penalty: (\$85,200) OEPA \$68,160 Bus Fund \$17,040 Conduct emission tests Submit test report	714704 714705	07/17/09 07/17/09 08/07/09 09/07/09		06/25/09 06/25/09	146684 146683
Village of North Randall (06/30/09)	Civil penalty: (\$1,500) Have all vehicles tested and report results	714660	07/30/09 12/31/09	Y		
Precision Aggregates III, LLC (07/08/09)	Civil penalty: (\$15,000) OEPA \$4,500 \$7,500 Bus Fund \$3,000	715181 715182 715183	09/15/09 09/15/10 09/15/09		09/14/09 09/14/09	5008 5010
Village of Oakwood (07/07/09)	Civil penalty: (\$2,500) Have all vehicles tested and report results	714842	08/07/09 11/02/09		08/17/09	49645

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
The Belden Brick Company, L.L. (07/06/09 - Consent Decree)	Civil penalty: (\$850,000)					
	OEPA	\$170,000	717042	08/06/09	08/17/09	9044400714
		\$170,000	717043	07/06/10		
		\$170,000	717044	01/06/11		
		\$170,000	717045	07/06/11		
	Bus Fund	\$170,000	717046	08/06/09	08/17/09	9044400715
	Pay \$334,514.43 for Title V permit emission fees for CY 2001 thru 2006				Upon receipt of invoice from OEPA	08/14/09
Submit SO2 FERs for CY 1993 thru 2000			01/06/10		12/23/09	
For Plant 8, pay difference in emission fees for CY 1999 and 2000				Upon receipt of invoice from OEPA		

Saif Khan, d.b.a. Lakeland Citgo (08/20/09)	Civil penalty: (\$10,000)					
	OEPA	\$ 500	726488	09/20/09	08/06/09	23336993
		\$2,500	726489	12/20/09	11/30/09	23469420
		\$2,500	726490	03/20/10	03/23/10	23705865
		\$2,500	726491	06/20/10	06/18/10	23938470
	Bus Fund	\$2,500	726492	09/20/09	08/06/09	23336992

Joseph Parker (08/18/09)	Civil penalty: (\$250) 725188 09/18/09 Y					

Speedway SuperAmerica, LLC (09/22/09)	Civil penalty: (\$35,880)					
	OEPA	\$28,704	727238	10/05/09	09/29/09	960292
	Bus Fund	\$ 7,176	727239	10/22/09	09/29/09	960291
	Submit weekly inspection records			11/14/10		
	Submit weekly inspection records			11/14/11		
	Submit results of static leak and A/L ratio tests for 2010			04/14/10	09/14/10	
	Submit results of static leak and A/L ratio tests for 2011			04/14/10	09/14/10	

Pioneer Environmental Companies (09/22/09)	Civil penalty: (\$7,000)					
	OEPA	\$2,100	727235	10/22/09	Y	
		\$3,500	727236	03/22/10	P	
	Bus Fund	\$1,400	727237	10/22/09	Y	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
Stein, Inc. (10/13/09)	Civil penalty: (\$50,000)						
	OEPA	\$10,000	735696	05/13/10	05/12/10	18805	
		\$10,000	735697	08/13/10			
		\$10,000	735698	11/13/10			
		\$10,000	735699	02/13/11			
	Bus Fund	\$10,000	735700	11/13/09	10/23/09	16035	

Joseph and Marie Eberz (10/19/09 - CO)	Civil penalty: (\$500)						

CertainTeed Corp (10/19/09 - CO)	Civil penalty: (\$230,000)						
	OEPA	\$184,000	735799	11/19/09	11/05/09	3802097	
	Bus Fund	\$ 46,000	735800	11/19/09	11/05/09	3802098	
	Submit Title V permit application			w/i 90 days of issuance of PTI			
	Submit plan for measuring OC content of stone			01/19/10			
Submit FERs for 1993-1996			04/19/10				

Aleris International, Inc., et. al. (10/19/09 - CO)	Civil penalty: (\$334,545) when U.S. Bankruptcy Court for District of Delaware decides						
	Install load cells to weigh flux			04/29/10			
	Submit Capture and Collection System Improvement Plan			11/29/09			
	Complete all improvements described in CCSIP			04/29/10			
	Measure fan RPM			01/29/10			
	Measure static pressure of air curtain			01/29/10			
	Perform compliance tests			10/29/10			
	Submit test results			12/29/10			
	Submit HCI PTE analysis			12/29/10			
	Conduct additional compliance tests			03/29/10			
	Comply with all requirements of Subparts A and RRR			09/29/10			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date	
Circle K Midwest (GDFs 5204, 5209, 5318, 5320, 5557, 5558, 0059 and 5217) (11/04/09)	Civil penalty: (\$100,000)						
	OEPA	\$80,000	735797	12/04/09	11/13/09	555299730	
	Bus Fund	\$20,000	735798	12/04/09	11/13/09	555299731	
	Perform static leak & A/L ratio			03/31/10			
	tests at each GDF			08/31/10			
					03/31/11		
					08/31/11		

Rascal House Pizza (11/12/09)	Civil penalty: (\$10,000)						
	OEPA	\$1,250	746346	12/12/09	12/07/09	2353	
		\$1,250	746347	03/12/10	03/12/10	2723	
		\$1,250	746348	06/12/10	05/08/10	5030	
		\$1,250	746349	09/12/10			
		\$1,250	746350	12/12/10			
		\$1,250	746351	03/12/11			
		\$1,250	746352	06/12/11			
	\$1,250	746353	09/12/11				

Great Plains Exploration (11/12/09)	Civil penalty: (\$19,000)						
	OEPA	\$1,000	746093	03/01/10	06/02/10	14490	
		\$1,000	746094	04/01/10	06/02/10	14490	
		\$1,000	746095	05/01/10	06/02/10	14490	
		\$1,000	746096	06/01/10			
		\$1,000	746097	07/01/10			
		\$1,000	746098	08/01/10			
		\$1,000	746099	09/01/10			
		\$1,000	746100	10/01/10			
		\$1,000	746101	11/01/10			
		\$1,000	746102	12/01/10			
		\$1,000	746103	01/01/11			
		\$1,000	746104	02/01/11			
		\$1,000	746105	03/01/11			
		\$1,000	746106	04/01/11			
	\$1,000	746107	05/01/11				
	Bus Fund	\$1,000	746108	11/01/09	11/10/09	12949	
		\$1,000	746109	12/01/09	12/01/09	13193	
		\$1,000	746110	01/01/10	01/07/10	13408	
		\$1,000	746111	02/01/10	02/02/10	13591	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Sunoco, Inc. (Toledo Refinery) (11/12/09)	Civil penalty: (\$32,250)					
	OEPA	\$25,800	746355	11/26/09	11/06/09	6.9E+09
	Bus Fund	\$6,450	746356	12/12/09	11/06/09	6.9E+09
	Complete corrective actions in Finding 15(a) and submit documentation			12/31/09		
	Correct deficiencies in butane sphere inspection reports & submit documentation			06/30/10		
	Resolve compliance audit findings in Finding 14(c) and submit documentation			12/31/09		

Thermo-Rite Manufacturing Company, Inc. (12/02/09)	Civil penalty: (\$36,000)					
	OEPA	\$800	747314	03/01/10	02/26/10	52818
		\$2,000	747315	04/01/10	03/26/10	52926
		\$2,000	747316	05/01/10	04/30/10	53077
		\$2,000	747317	06/01/10	05/21/10	53155
		\$2,000	747318	07/01/10	06/25/10	53309
		\$2,000	747319	08/01/10		
		\$2,000	747320	09/01/10		
		\$2,000	747321	10/01/10		
		\$2,000	747322	11/01/10		
		\$2,000	747323	12/01/10		
		\$2,000	747324	01/01/11		
		\$2,000	747325	02/01/11		
		\$2,000	747326	03/01/11		
		\$2,000	747327	04/01/11		
		\$2,000	747328	05/01/11		
		Bus Fund	\$2,000	747329	12/01/09	11/30/09
		\$2,000	747330	01/01/10	12/23/09	52520
		\$2,000	747331	02/01/10	01/21/10	52664
		\$1,200	747332	03/01/10	02/26/10	52819

D & R Supply, Inc. (12/02/09)	Civil penalty: (\$20,000)					
	OEPA	\$5,000	746313	01/01/10	12/22/09	3847
		\$2,750	746314	04/01/10	03/10/10	3934
		\$2,750	746315	07/01/10	06/11/10	4038
		\$2,750	746316	10/01/10		
		\$2,750	746317	01/01/11		
		Bus Fund	\$4,000	746318	12/01/09	11/06/09

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Emery Oleochemicals, LLC (12/17/09)	Civil penalty: (\$57,400)					
	OEPA	\$28,700	747345	12/31/09	12/09/09	1004602
	Bus Fund	\$28,700	747346	12/31/09	12/09/09	1004605
	For odor emission control system for P004 (penalty credit project):					
	Submit plans			03/01/10		
	issue purchase orders			07/01/10		
	initiate construction			10/01/10		
	complete construction			12/31/10		
	submit documentation of spending at least \$340,000			01/31/11		

Robert Schiekh (12/22/09)	Civil penalty: (\$750)					
		747648	01/22/10	Y		

D. Todd Hosea, d.b.a. Hosea Project Movers (12/23/09)	Civil penalty: (\$22,000)					
	OEPA	\$4,400	747655	03/23/10	03/25/10	29831
		\$4,400	747656	06/23/10		
		\$4,400	747657	09/23/10		
		\$4,400	747658	12/23/10		
	Bus Fund	\$4,400	747659	01/23/10	01/25/10	2058

Randy Wise (12/23/09)	Civil penalty: (\$250)					
		747654	01/23/10	Y		

Mark A. Mirich, d.b.a. All Demolition (12/28/09 - CO)	Civil penalty: (\$25,000)					
	OEPA	\$800	748952	02/15/10	04/09/10	263242
		\$800	748953	03/15/10		
		\$800	748954	04/15/10		
		\$800	748955	05/15/10		
		\$800	748956	06/15/10		
		\$800	748957	07/15/10		
		\$800	748958	08/15/10		
		\$800	748959	09/15/10		
		\$800	748960	10/15/10		
		\$800	748961	11/15/10		
		\$800	748962	12/15/10		
		\$800	748963	01/15/11		
		\$800	748964	02/15/11		
		\$800	748965	03/15/11		
		\$800	748966	04/15/11		
		\$800	748967	05/15/11		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Mark A. Mirich, d.b.a. All Demolition (con't)	\$800	748968	06/15/11			
	\$800	748969	07/15/11			
	\$800	748970	08/15/11			
	\$800	748971	09/15/11			
	\$800	748972	10/15/11			
	\$800	748973	11/15/11			
	\$800	748974	12/15/11			
	\$800	748975	01/15/12			
	\$800	748976	02/15/12			
	\$200	748977	02/15/10			
	\$200	748978	03/15/10			
	\$200	748979	04/15/10			
	\$200	748980	05/15/10			
	\$200	748981	06/15/10			
	\$200	748982	07/15/10			
	\$200	748983	08/15/10			
	\$200	748984	09/15/10			
	\$200	748985	10/15/10			
	\$200	748986	11/15/10			
	\$200	748987	12/15/10			
	\$200	748988	01/15/11			
	\$200	748989	02/15/11			
	\$200	748990	03/15/11			
	\$200	748991	04/15/11			
	\$200	748992	05/15/11			
	\$200	748993	06/15/11			
	\$200	748994	07/15/11			
	\$200	748995	08/15/11			
	\$200	748996	09/15/11			
	\$200	748997	10/15/11			
\$200	748998	11/15/11				
\$200	748999	12/15/11				
\$200	749000	01/15/12				
\$200	749001	02/15/12				

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
ConSun Food Industries, Inc. (01/14/10)	Civil penalty: (\$17,250)					
	OEPA	\$1,600	751928	02/14/10		290041
		\$4,000	751929	05/14/10		290151
		\$4,000	751930	08/14/10		
		\$4,200	751931	11/14/10		
	Bus Fund	\$3,450	751932	02/14/10		290042
	Perform static leak & A/L ratio tests at each GDF			03/31/10		02/22/10
			08/31/10			
			03/31/11			
			08/31/11			

Brent Saionz, d.b.a. Simon Excavating (01/13/10)	Civil penalty: (\$2,000)					
			753503	01/27/10	05/18/10*	2504
* \$1,000 paid as settlement of the ERAC appeal of the F&O's						

The Afco Group (01/20/10)	Civil penalty: (\$1,000)					
	OEPA	\$250	753493	02/20/10	P	
		\$250	753494	03/18/10		
		\$250	753495	04/18/10		
		\$250	753496	05/18/10		

Lehigh Gas Corporation (01/20/10)	Civil penalty: (\$12,000)					
	OEPA	\$9,600	753405	02/03/10		1044
	Bus Fund	\$2,400	753406	03/05/10		1045
	Perform static leak & A/L ratio tests at			03/31/10		

S. H. Bell Company (02/08/10)	Operate and maintain a mobile, wet suppression system for the straight-sided dock barge unloading and loading, and truck loading (F016)					
				01/15/10		
	Install a building enclosure connected to the PA truck load out and vented to the existing baghouse, for the truck dump unloading of incoming materials (F013)					
				01/22/10		
Operate and maintain a mobile, wet suppression system for F009						
			02/15/10			
Operate and maintain a mobile, wet suppression system for the railcar unloading and loading (F015)						
			02/15/10			

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
S. H. Bell Company (con't) (02/08/10)	Install capture system and baghouse for F005 and F008		03/12/10			
	Cease handling, processing, and storage of AM at the Little England Facility		03/31/10			
	Install wet suppression system (with impingement spray nozzles) for the dump hoppers in F006 and F007 as an interim control measure until the capture system and baghouse are installed		04/01/10			
	Cease placing AM storage piles (F002) in any stall-type storage building unless the building has been modified to make it a full enclosure		06/15/10			
	Install capture system and baghouse for F006 and F007		11/19/10			
	Either cease processing AM or install either a wet suppression system with fogging nozzles) or a capture system and baghouse for the building fugitive emissions at P901		11/19/10			

INEOS ABS Corporation (con't) (02/04/10 - Consent Decree)	Civil penalty: (\$3,100,000)					
	U.S.	\$1,480,000	N/A		03/06/10	
	USEPA Hazardous Substances Superfund	\$ 70,000	N/A		03/06/10	
	HAMCO	\$ 382,500	N/A		03/06/10	
	Bus Fund	\$ 229,500	753743		03/06/10	02/26/10 9494104298
	SERC Fund	\$ 20,000	753742		03/06/10	02/26/10 9494104299
	OEPA, DAPC	\$ 256,000	753740		03/06/10	02/26/10 9494104300
	OEPA, EEF	\$ 612,000	753741		03/06/10	02/26/10 9494104301
	ODNR	\$ 50,000			03/06/10	
	Submit summary of FTIR testing and recommend NHVFG				07/06/10	
Comply with NHVFG of 200 Btu/scf or alternative value approved by USEPA				08/06/10		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
INEOS ABS Corporation (con't)	<u>Biofilter milestones:</u>					
(02/04/10 - Consent Decree)	Submit work plan		03/21/10		03/19/10	
	Issue purchase orders		~ 05/04/10*			
	Initiate construction (Phase I)		~ 06/04/10			
	Complete construction (Phase I)		~ 12/04/10			
	Perform emission testing		~ 3/4/2011			
	Submit monitoring procedures/ maintenance plan		~ 5/4/2011			
	Complete construction (Phase II)		~ 6/1/2011			
	(* ~ assuming 2 weeks to approve work plan)					
	Submit a new and/or revised SOP for the Main Duct		03/06/10			
	<u>LDAR program milestones:</u>					
	Develop a written facility-wide LDAR Program Plan		05/06/10			
	Monitor all equipment in accordance with more stringent frequencies		05/06/10			
	Begin replacing "leaking" valves and connectors with "low-leaking" technology		11/06/10			
	Perform the first audit of the LDAR		05/06/10			

Spectrum Metal Finishing, Inc.	Civil penalty: (\$100,000)					
(02/19/10 - Consent Order)	OEPA	\$20,000	753753	03/31/11		
		\$20,000	753754	06/30/11		
		\$20,000	753755	09/30/11		
		\$20,000	753756	12/31/11		
	Bus Fund	\$ 5,000	753757	03/31/11		
		\$ 5,000	753758	06/30/11		
		\$ 5,000	753759	09/30/11		
		\$ 5,000	753760	12/31/11		
	Submit synthetic minor PTI application for K002			03/21/10		
	Complete construction of RTO				w/i 230 days after PTI is issued	
	Submit odor abatement study				w/i 90 days of notice by OEPA	

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
Quikrete-Cleveland (02/26/10)	Civil penalty: (\$16,250)	753762	03/12/10		03/04/10	1006152
	Complete the asphalt paving SEP project		02/26/11			
H. B. Fuller Company (03/10/10)	Civil penalty: (\$9,375)					
	OEPA \$6,000	757445	05/10/10		03/18/10	165805
	Bus Fund \$3,375	757446	04/10/10		03/08/10	165806
	Submit a schedule for completion of the SEP		04/10/10			
City of Youngstown, WWTP (03/10/10)	Civil penalty: (\$12,405)					
	OEPA \$9,924	757447	03/24/10		03/26/10	71966
	Bus Fund \$2,481	757448	03/24/10		03/26/10	71965
	Submit documentation that RMP deficiencies have been corrected		04/10/10			
Lafarge North America, Inc. (Paulding) (03/18/10 - Consent Decree)	Civil penalty: (\$55,250)					
	OEPA \$44,200	757491	04/18/10		04/08/10	71820
	Bus Fund \$11,050	757492	04/18/10		04/08/10	71819
	Install NOx and SO2 CEMs for both kilns		03/18/11			
	Install SNCR and DAA for one kiln		11/01/11			
Install SNCR and DAA for the other kiln		12/01/11				
Carmeuse Lime, Inc. (Maple Grove Facility) (03/19/10)	Civil penalty: (\$180,740)					
	OEPA \$144,592	757439	04/19/10		03/31/10	252166
	Bus Fund \$ 36,148	757440	04/19/10		03/31/10	252165
	Submit Title V permit modification for transloaders and roadways		06/19/10			
Submit PTI application for the modification of P905		06/19/10				
Bailey-PVS Oxides Delta LLC. (03/19/10)	Civil penalty: (\$55,000)					
	OEPA \$ 8,800	757469	07/19/10			
	\$ 8,800	757470	10/19/10			
	\$ 8,800	757471	01/19/11			
	\$ 8,800	757472	04/19/11			
	\$ 8,800	757473	07/19/11			
	Bus Fund \$11,000	757474	04/19/10			
Submit PTIO applications		04/19/10		5/7/2010		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O	C y/n	Complete Date	Check # / Date
MARA2-DNA, Inc. (Nates Marathon) (04/02/10)	Civil penalty: (\$5,000)					
	OEPA	\$250	757483	05/02/10		04/15/10 995002
		\$750	757484	08/02/10		
		\$750	757485	11/02/10		
		\$750	757486	02/02/11		
		\$750	757487	05/02/11		
		\$750	757488	08/02/11		
		\$750	757489	11/02/11		
		\$250	757490	02/02/12		
		Perform static leak & A/L ratio tests at each GDF		04/30/10 08/31/10 04/30/11 08/31/11		
Severstal Wheeling, Inc. (03/30/10)	Civil penalty: (\$15,000)					
	OEPA	\$12,000	757477	04/30/10		
	Bus Fund	\$ 3,000	757478	04/30/10		
	Obtain and achieve compliance w/ PTI modification for burning COG in the co-generation boilers			08/15/10		
Demetrius "Duke" Ball, d.b.a. Ball Wrecking Company (03/10/10 - Court Order)	Civil penalty: (\$7,000)		757442	04/10/10		
Raman Patel, d.b.a. Marathon Quick Mart (04/20/10)	Civil penalty: (\$8,000)					
	OEPA	\$ 400	758060	05/20/10		05/17/10 293424
		\$2,000	758061	08/20/10		
		\$2,000	758062	11/20/10		
		\$2,000	758063	02/20/11		
	Bus Fund	\$1,600	758016	05/20/10		05/17/10 293425
	Perform static leak & A/L ratio tests at each GDF			03/30/10 08/31/10 03/30/11 08/31/11		
Submit proof of training			05/20/10			
Summit Equipment and Supplies, Inc. (03/01/10 - Consent Order)	Civil penalty: (\$1,250)		758079	04/01/10		

Facility Name	Milestone or Requirement*	Revenue ID	Deadline in F&O y/n	C Complete Date	Check # / Date	
Pure Gas Incorporated (05/28/10)	Civil penalty: (\$7,000)					
	OEPA	\$ 800		09/28/10		
		\$ 800		11/28/10		
		\$ 800		01/28/11		
		\$ 800		03/28/11		
		\$ 800		05/28/11		
		\$ 800		07/28/11		
		\$ 800		09/28/11		
		Bus Fund \$1,400		07/28/10	06/07/10	1986
		Perform static leak & A/L ratio tests at each GDF		03/30/11		
			08/31/11			
			03/30/12			
			08/31/12			

Bridgestone APM Company (05/28/10)	Civil penalty: (\$90,628)					
	OEPA	\$72,502		06/28/10	06/10/10 037312	
	Bus Fund	\$18,126		06/28/10	06/10/10 037313	

Norton Environmental Company (09/21/09 - Consent Order)	Civil penalty: (\$5,000)			06/15/10		
	(DAPC's portion)			(by DSIMM)		

J. S. Paris Excavating, Inc. (06/02/10)	Civil penalty: (\$7,000)					
	OEPA	\$5,600		07/02/10		
	Bus Fund	\$1,400		07/02/10		

Barrett Paving Materials, Inc. (06/02/10)	Civil penalty: (\$141,700)					
	OEPA	\$113,360		06/16/10	05/07/10 048039	
	Bus Fund	\$ 28,340		06/16/10	05/07/10 048040	
		Develop and implement a regular inspection and maintenance plan for the air pollution control equipment at each of the asphalt plants		08/02/10		

Iten Industries, Inc. (Plant 1) (06/23/10)	Civil penalty: (\$30,000)					
	OEPA	\$ 9,000		07/23/10		
		\$15,000		06/15/11		
	Bus Fund \$ 6,000		07/23/10			



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

June 24, 2010

CERTIFIED MAIL

Mr. Hugh J. Morgan
Attorney at Law
6155 Rockside Road, Suite 307
Cleveland, Ohio 44131

Re: Final Findings and Orders for:
air pollution control rule and law
violations by Iten Industries, Inc.
(Plant 1), 4001 Benefit Avenue,
Ashtabula, Ohio

Dear Mr. Morgan:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

James A. Orlemann, P.E.
Assistant Chief, SIP Development and Enforcement
Division of Air Pollution Control

JAO/pr

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Carol Hester, PIC
Priscilla Roberson, DAPC
Brenda Case, Fiscal Office (Agency # NA)
Stephen Feldmann, Legal Office
Muhammad Mereb, DAPC
Ed Fasko/Tim Fischer/Tony Becker, NEDO
Peter Huggins, Iten

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

OHIO E.P.A.

JUN 23 2010

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Iten Industries, Inc. (Plant 1)
4001 Benefit Avenue
Ashtabula, Ohio 44005

:
:
:

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Iten Industries, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility called Plant 1 and located at 4001 Benefit Avenue, Ashtabula in Ashtabula County, Ohio. At the facility, Respondent manufactures thermoplastic and thermoset plastic parts. Five emissions units ("EUs"), which are identified in the following table, are among the EUs at the facility, and they are all controlled by a common thermal oxidizer:

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: [Signature] Date: _____

EU ID	Company ID	Company Description	Installation Date
K001	Treater #2	Egan treater for paper and fabric coating with phenolic and epoxy resins	03/01/1973
K002	Treater #1	Egan treater for paper and fabric coating with phenolic and epoxy resins	03/01/1961
K003	Treater #3	Epoxy and phenolic resin coating of paper and fabric	08/01/1982
K004	Treater #4	Epoxy and melamine coating of fiberglass fabric	02/01/1991
P003	Phenolic Resin Mixing	Phenolic resin and epoxy resin mixing for use at treaters	03/01/1968

EUs K001, K002, K003, K004 and P003 are each an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

2. OAC Rule 3745-21-09(B)(6) states, in part, that in lieu of complying with the pounds of volatile organic compounds ("VOCs") per gallon of solids limitations in OAC Rule 3745-21-09(F) and (G), any owner or operator of such a coating line that employs a control system may choose to demonstrate that the capture and control equipment provide not less than 81 percent reduction, by weight, in the overall VOC emissions from the coating line and that the control equipment has an efficiency of not less than 90 percent, by weight, for the VOC emissions vented to the control equipment. Respondent selected to comply with OAC Rule 3745-21-09(B)(6).

3. Prior to February 18, 2008, OAC Rule 3745-21-07(G)(2) stated, in part, that a person shall not discharge more than 40 pounds of organic material into the atmosphere in any one day, nor more than 8 pounds in any one hour, from any article, machine, equipment, or other contrivance, unless said discharge has been reduced by at least 85 percent, by weight.

4. Prior to February 18, 2008, OAC Rule 3745-21-07(G)(6)(a) stated, in part, that if emissions of organic materials into the atmosphere are to be reduced pursuant to OAC Rule 3745-21-07(G)(2) by incineration, then 90 percent or more of the carbon in the organic material being incinerated must be oxidized to carbon dioxide.

5. On and after February 18, 2008, OAC Rule 3745-21-07(M)(1) and (M)(2) replaced the requirements of OAC Rule 3745-21-07(G)(2) and (G)(6) for EU P003. For EU P003, OAC Rule 3745-21-07(M)(1) indicates that such unit is subject to the control requirements of OAC Rule 3745-21-07(M)(2). OAC Rule 3745-21-07(M)(2) specifies that EU P003 shall be equipped with capture and control equipment that reduces the organic compound emissions from such unit by an overall control efficiency of at least 85 percent, by weight. Furthermore, that rule specifies that, if the reductions are obtained by incineration, then 90 percent or more of the carbon in the organic material being incinerated must be oxidized to carbon dioxide. Respondent employs an incineration

system to control organic material emissions and, therefore, is subject to the 90 percent oxidation requirements.

6. A Title V permit was issued by Ohio EPA for the facility on December 31, 2002, became effective on January 16, 2003, and expired on January 16, 2008. The terms and conditions of the expired Title V permit remain in effect until final action is taken by the Director on Respondent's timely filed renewal Title V application, pursuant to OAC Rule 3745-77-06(A).

7. The terms and conditions of the Title V permit for the facility specify that Respondent maintain EUs K001, K002, K003, and K004 in compliance with at least the minimum allowable overall VOC emission control efficiency and at least the minimum allowable VOC control efficiency of OAC Rule 3745-21-09(B)(6) in lieu of the requirements of OAC Rule 3745-21-09(F) and (G).

8. The terms and conditions of the Title V permit for the facility specify that Respondent maintain EU P003 in compliance with at least the minimum allowable overall organic material reduction efficiency and at least the minimum allowable organic material destruction efficiency of OAC Rules 3745-21-07(G)(2) and 3745-21-07(G)(6)(a), respectively.

9. The testing requirements for EUs K001, K002, K003, and K004 under Part III of the Title V permit state, in part, that the emission testing shall be conducted within 3 months after permit issuance and within 6 months prior to permit expiration. The emission testing shall be conducted to demonstrate compliance with OAC Rule 3745-21-09(B)(6). Specifically, testing shall demonstrate at least an 81 percent overall reduction of VOCs emitted by the emissions units and at least a 90 percent destruction of the VOCs that enter the thermal oxidizer. The tests shall be conducted while the EUs K001, K002, K003, K004, and P003 are operating at or near their maximum capacities, unless otherwise specified or approved by Northeast District office of Ohio EPA ("NEDO").

10. The testing requirements for EU P003 under Part III of the Title V permit state, in part, that Respondent was to conduct emission testing within 3 months after permit issuance and within 6 months prior to permit expiration. The emission testing shall be conducted to demonstrate compliance with OAC Rules 3745-21-07(G)(2) and 3745-21-07(G)(6)(a). Specifically, testing shall demonstrate at least an 85 percent reduction, by weight, in the organic material emitted by emissions units K001, K002, K003, K004 and P003 and at least a 90 percent destruction of the organic material that enters the thermal oxidizer. The tests shall be performed while EUs K001, K002, K003, K004, and P003 are operating at or near their maximum capacities, unless otherwise specified or approved by NEDO.

11. On November 23, 2007, NEDO received an intent-to-test notification form from Respondent. Respondent indicated that it would conduct performance tests on EUs

K001, K002, K004, and P003 on December 28, 2007. Respondent's Title V permit that expired on January 16, 2008, required Respondent to conduct emissions testing on EUs K001, K002, K003, and K004 within 6 months of the expiration date of the permit.

12. EU K003 was not included in the intent-to-test notification form because, on December 13, 2007, Respondent sent a request to NEDO to restrict operations at its facility by allowing only three of the four EUs (K001, K002, K003, and K004) to operate at any given time, and to exempt EU K003 from Title V performance testing because it is rarely used and has only 69 percent of the capacity of the other three EUs due to its width limitation. It was also indicated that Respondent has historically operated only three treaters at any one time. On February 25, 2008, the Director of Ohio EPA sent a letter to Respondent granting the exemption of EU K003 from Title V performance testing and to restrict the operations to three of the four treaters at any one time.

13. On December 28, 2007, Respondent conducted a performance test on EUs K001, K002, K004 and P003. Since the four EUs are controlled by a common thermal oxidizer the test consisted of three 1-hour sampling runs of the oxidizer inlet and outlet. Since the emissions units are completely enclosed, the overall efficiency equals the destruction efficiency for each run. NEDO received the stack test report on March 18, 2008. The VOC destruction efficiencies for the three 1-hour sampling runs were 77.7 percent, 73.7 percent, and 75.2 percent (an average of 75.5 percent). The following table shows the average efficiencies in comparison to the limits:

	VOC emissions from EUs K001, K002, and K004		OC emissions from EU P003	
	Allowable	Average	Allowable	Average
Overall control efficiency	≥ 81%	75.5%	≥ 85%	75.5%
Destruction efficiency	≥ 90%	75.5%	≥ 90%	75.5%

14. Respondent failed to comply with the overall control efficiency and destruction efficiency associated with EUs K001, K002, K004, and P003, in violation of OAC Rule 3745-21-09(B)(6), former Rule 3745-21-07(G)(2), former Rule 3745-21-07(G)(6) and Rule 3745-21-07(M)(2), Title V permit terms and conditions, and ORC § 3704.05(G) and (J)(2).

15. On April 18, 2008, NEDO sent a notice of violation ("NOV") letter to Respondent for failing to meet the overall control and destruction efficiency limits and requested a compliance plan and schedule.

16. On April 29, 2008, NEDO received Respondent's compliance plan. Respondent indicated that the problem was cracks in several of the VOC pre-heater tube bundles within the unit prior to VOC combustion and these cracks allowed uncombusted emissions to escape to the egress point. Respondent anticipated repairs to be completed within 30 days. In a letter dated August 10, 2009, Respondent indicated that the thermal

oxidizer was shut down from May 18, 2008 through May 28, 2008 for major repairs.

17. On June 4, 2008, NEDO received an intent-to-test notification form from Respondent for the re-test after the repairs.

18. On July 17, 2008, Respondent conducted a performance test on EUs K001, K002, K004 and P003. Since the four EUs are controlled by a common thermal oxidizer, the test consisted of three 1-hour sampling runs of the oxidizer inlet and outlet. Since the emissions units are completely enclosed, the overall efficiency equals the destruction efficiency for each run. NEDO received the stack test report on August 18, 2008. The VOC destruction efficiency of the three 1-hour sampling runs were 98.62 percent, 98.70 percent, and 97.73 percent (an average of 98.68 percent). The following table shows the average efficiencies in comparison to the limits:

	VOC emissions from EUs K001, K002, and K004		OC emissions from EU P003	
	Allowable	Average	Allowable	Average
Overall control efficiency	≥ 81%	98.68%	≥ 85%	98.68%
Destruction efficiency	≥ 90%	98.68%	≥ 90%	98.68%

19. Based on the results of the compliance re-test results, NEDO sent a return-to-compliance letter to Respondent on September 23, 2008.

20. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of thirty thousand dollars (\$30,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment to Ohio EPA shall be made by official checks made payable to "Treasurer, State of Ohio." The payments shall be made in two installments per the following schedule:

- Nine thousand dollars (\$9,000) of the total amount due within thirty (30) days after the effective date of these Orders; and
- Fifteen thousand dollars (\$15,000) of the total amount due by June 15, 2011.

The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining six thousand dollars (\$6,000) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$6,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$6,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$6,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Northeast District Office
Ohio Environmental Protection Agency
2110 East Aurora Rd.
Twinsburg, Ohio 44087
Attn: Tony Becker

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically

cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

6/22/10

Date

AGREED:

Iten Industries, Inc.



Signature

6/14/10

Date

Peter Huggins

Printed or Typed Name

Pres.

Title



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

JUN 29 2010

CERTIFIED MAIL

Mr. Dave Figuly
Director of Branch Operations
Famous Enterprises, Inc.
109 North Union Street
Akron, OH 44302

Re: Proposed Director's Final Findings and Orders for violations of Ohio EPA's air pollution control requirements

Dear Mr. Figuly:

My staff has informed me of the violations of the Ohio Administrative Code ("OAC") that occurred during a demolition project at the Apex Building property located at 1623 1st Street in Sandusky, Ohio, in 2008. Specifically, the project violated: OAC Rule 3745-20-03(A) by failing to provide notification of demolition to Ohio EPA at least ten working days before the beginning of the demolition operation; OAC Rule 3745-20-04(A)(1) by failing to remove all regulated asbestos-containing material ("RACM") prior to conducting demolition activities; OAC Rule 3745-20-04(B)(1) by handling RACM during the demolition of the facility without having an on-site authorized representative trained in the provisions of OAC Chapter 3745-20; and OAC Rule 3745-20-05(B)(2) by failing to keep asbestos-containing waste material adequately wet. I understand that cleanup of the site was done properly after the visit by Ohio EPA inspectors.

In order to resolve this matter, I am proposing to issue to Famous Enterprises, Inc. and Selvey's Dirt Works, Ltd., the enclosed Findings and Orders prepared by my staff which includes a provision for civil penalties for the settlement of claims resulting from the violations of the State's air pollution control laws and rules. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the attached document summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include provisions for a portion of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project. This provision is being included in Findings and Orders used to resolve violations of Ohio's air pollution control regulations. The project involves diverting 20 percent of the total civil penalty amount towards funding an Ohio EPA program for the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer

Mr. Dave Figuly
Famous Enterprise, Inc.
Page 2 of 2

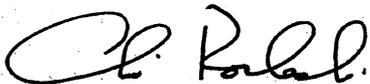
Air Quality Standards for fine particulates (i.e., particles less than 2.5 microns in diameter). Information concerning the school bus retrofit program is provided in an enclosed document.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting or conference call to try to reach a settlement, please contact Donald L. Vanterpool, Ohio EPA Staff Attorney, at (614) 644-3037. If he does not hear from Famous Enterprises, Inc. within fourteen (14) days of the receipt of this letter concerning its willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the violations to the Ohio Attorney General's Office for legal action.

Enclosed is a copy of the guidance on the administrative enforcement process, which you may find helpful in answering any questions on Ohio EPA's enforcement process.

I hope that Famous Enterprises, Inc., Selvey's Dirt Works, Ltd., and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski
Director

CK/UD/ud

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Urvi Doshi, DAPC
Donald L. Vanterpool, Legal Office
Tom Sattler, NWDO
Mark Budge, NWDO
Chad Delbecq, NWDO

Enclosures

General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with emission control equipment and provide the general guidelines that must be followed by any school system that participates in the program.

1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NO_x) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The filtration efficiency of crankcase filters averages between 80% and 97%. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?

Only school buses that meet the following criteria will be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of control equipment would be acceptable for installation?

The USEPA publishes a "Verified Technology List." Only control equipment found on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA, they will be added to the list. A copy of this list can be accessed at the following web site:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

5. Is there a special type of fuel that must be used with the control equipment?

In some cases, yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

6. What costs are associated with the installation and operation of the emission controls?

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon.

Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

7. How will the control devices be funded by the Ohio EPA?

Ohio EPA enforcement case settlements will be the source of the funding for the diesel retrofit installations. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment of \$5,000 or greater), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA has established for the retrofitting of school buses.

8. How will the school systems receive the SEP monies for the diesel retrofit installations?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is installed and maintained properly?

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

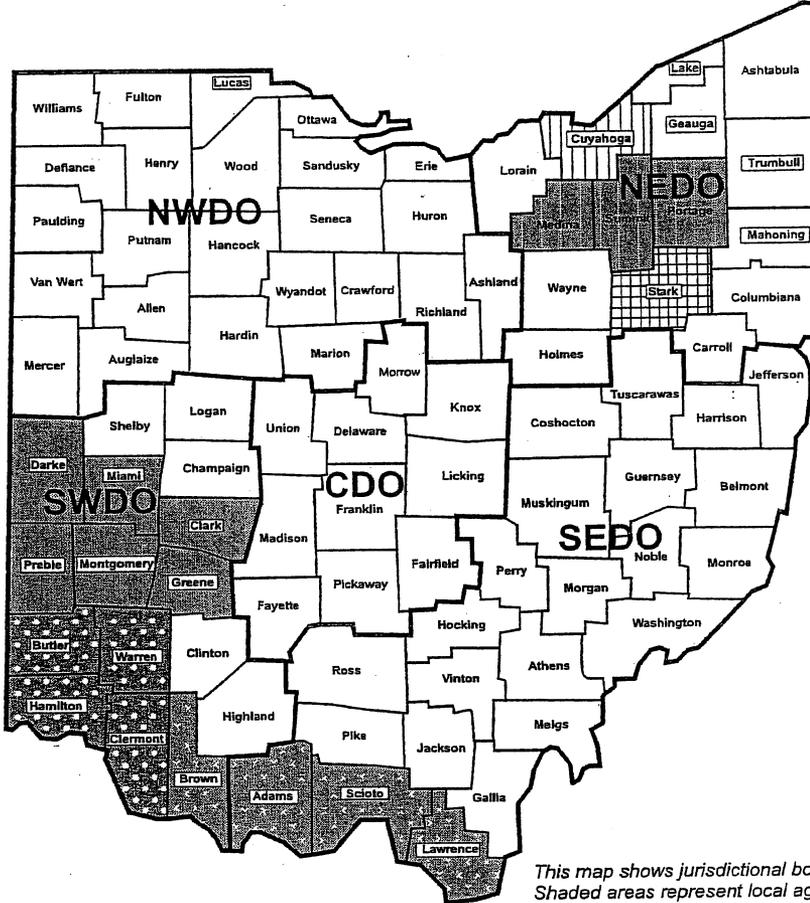
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.



District Offices

- CDO Adam Ward, APC Manager**
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us
- SEDO Bruce Weinberg, APC Manager**
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us
- NEDO Dennis Bush, APC Manager**
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us
- NWDO Mark Budge, APC Manager**
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us
- SWDO Tom Schneider, APC Manager**
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

 **Lynn Malcolm, Administrator**
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@ci.akron.oh.us

 **Dan Aleman, Administrator**
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

 **Cory R. Chadwick, Director**
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

 **Richard L. Nemeth, Commissioner**
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

 **John Paul, Administrator**
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

 **Cindy Charles, Director**
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

 **Karen Granata, Administrator**
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Famous Enterprises, Inc.	:	<u>Director's Final Findings</u>
109 N. Union Street	:	<u>and Orders</u>
Akron, Ohio 44302	:	
	:	
and	:	
	:	
Selvey's Dirt Works, Ltd.	:	
P.O. Box 53	:	
Clyde, Ohio 43410	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Famous Enterprises, Inc. and Selvey's Dirt Works, Ltd. ("Respondents"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the facility (as hereinafter defined) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent Famous Enterprises, Inc. is the owner of the Apex Building, which is located at 1623 1st Street in Sandusky, Erie County, Ohio. Respondent Selvey's Dirt Works, Ltd. was hired by Respondent Famous Enterprises, Inc. to demolish the front

three bays of the Apex Building.

2. The Apex Building is a "facility" as defined in Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18), and the project was a "demolition" as defined in OAC Rule 3745-20-01(B)(13).

3. Respondents were each an "owner or operator," as defined in OAC Rule 3745-20-01(B)(39)(a), of the demolition project.

4. OAC Rule 3745-20-02(A) requires each owner or operator of any demolition operation to have the affected facility or part of the facility, where a demolition operation is to occur, thoroughly inspected by a certified asbestos hazard evaluation specialist prior to the commencement of the demolition for the presence of asbestos, including category I and category II nonfriable asbestos-containing material as defined in OAC Rule 3745-20-01(B)(9) and (B)(10).

5. An asbestos survey of the Apex Building was conducted in February 2002 and identified the following "regulated asbestos-containing material" ("RACM"), as defined in OAC Rule 3745-20-01(B)(42), in front of the building and in the boiler house:

Boiler house: 375 square feet of boiler insulation and 185 square feet of tank insulation.
Piping on first floor: 2,075 linear feet of pipe insulation with cementitious fittings, of which approximately 1,000 linear feet of pipe insulation is in the front three bays of the building.

6. Since the amount of RACM in the front three bays of the facility exceeded the threshold level of 260 linear feet on pipe and pursuant to OAC Rule 3745-20-02(B)(1), the requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05 applied to each owner or operator of this demolition operation.

7. On November 15, 2007, and pursuant to the notification requirements of OAC Rule 3745-20-03(A), Affiliated Environmental Services ("AES") submitted to Ohio EPA a notification of intent to perform an asbestos abatement at the facility. The amount of RACM to be removed was identified as 1,000 linear feet on pipes and the dates for removal were identified as November 28 through 30, 2007. Only the asbestos in the front three bays of the facility was to be removed, and did not include the boiler house which was also a part of the front of the building.

8. On November 20, 2007, and pursuant to the notification requirements of OAC Rule 3745-20-03(A), Respondent Selvey's Dirt Works, Ltd. submitted to Ohio EPA a notification of intent to perform a demolition of the facility from December 5, 2007 through June 2008. This notification identified site location for demolition as "Front of the Building" and was not specific concerning demolition of the boiler house portion of the building.

9. From December 3 through 5, 2007, AES removed approximately 1,000 linear feet of pipe insulation (RACM) from the front of the building, excluding the boiler house.

10. On or about June 12, 2008, the entire front of the building, including the boiler house, had been demolished, with 560 square feet of boiler and tank insulation and an unknown amount of pipe insulation (RACM) still inside of the boiler house, and only rubble remained at the site. The boiler had been removed, dismantled and taken to scrap yards weeks earlier. Samples of insulation and paint were collected from debris pile near the previous location of the boiler indicated the presence of asbestos above the threshold level for regulation.

11. ORC § 3704.05(G) prohibits the violation of any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704.

Failure to Submit Notification of Intent to Demolish a Facility Prior to Beginning Demolition:

12. OAC Rule 3745-20-03(A), in part, requires each owner or operator of any demolition operation described in OAC Rule 3745-20-02(B)(1) to provide the Director of Ohio EPA with written notice of intention to demolish a facility at least ten working days before the beginning of any demolition operation.

13. In or about June 2008, Respondents began demolition of the boiler house of the facility without submitting a notification to Ohio EPA, in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

Failure to Remove RACM Prior to Beginning Demolition of a Facility:

14. OAC Rule 3745-20-04(A)(1), in part, requires each owner or operator of a demolition operation to whom this rule applies, to remove all RACM from a facility being demolished before any activity begins that would break up, dislodge, or similarly disturb the materials or preclude access to the materials for subsequent removal.

15. Respondents failed to remove all RACM from the boiler house before beginning demolition of the front of the structure in or about June 2008, in violation of OAC Rule 3745-20-04(A)(1) and ORC § 3704.05(G).

Failure to Have Trained Representative Present at the Site During Demolition:

16. OAC Rule 3745-20-04(B)(1), in part, prohibits any RACM to be stripped, removed, or otherwise handled or disturbed at a facility regulated by OAC Chapter 3745-20 unless at least one authorized representative, trained in the provisions of OAC Chapter 3745-20, is present at the location of the demolition.

17. Respondents allowed RACM to be handled or disturbed during the demolition of the boiler house at the Apex Building in or about June 2008 without having at least one authorized representative, trained in the provisions of OAC Chapter 3745-20, present at the location of such demolition, in violation of OAC Rule 3745-20-04(B)(1) and ORC § 3704.05(G).

Failure to Keep Asbestos-Containing Waste Material Adequately Wet After Demolition Where RACM Was Not Removed Prior to Demolition:

18. OAC Rule 3745-20-05(B)(2) requires each owner or operator of a subject demolition operation, where asbestos was not removed prior to demolition, to keep asbestos-containing waste material adequately wet at all times during and after demolition and during handling, loading, transport and disposal at an active waste disposal site.

19. Respondents failed to keep asbestos-containing waste material adequately wet during and after demolition of this portion of the facility where asbestos was not removed prior to demolition, in violation of OAC Rule 3745-20-05(B)(2) and ORC § 3704.05(G).

20. On June 16 and June 17, 2008, an Ohio EPA inspector returned to inspect the demolition project. During the inspection, Ohio EPA found dry, friable asbestos-containing waste material still laying on the site, in continued violation of OAC Rule 3745-20-05(B)(2) and ORC § 3704.05(G).

21. On June 18, 2008, an Ohio EPA inspector spoke to Respondent Famous Enterprises, Inc. regarding the current findings at the Apex building demolition site. Respondent Famous Enterprises, Inc. was informed that the presence of asbestos in the debris requires the debris pile to be maintained adequately wet.

22. On June 19 and 20, 2008; and July 2, 7, and 11, 2008, an Ohio EPA inspector returned to the site and found debris partially covered and dry, in continued violation of OAC Rule 3745-20-05(B)(2) and ORC § 3704.05(G).

23. After the Ohio EPA inspector visited the facility on June 20, 2008, the demolition project was halted and Partners Environmental Consulting, Inc. was hired by Respondent Famous Enterprises, Inc. to oversee the cleanup and GCS Industrial Services, Ltd. was hired to perform an asbestos abatement. The final asbestos abatement was completed on August 21, 2008.

24. On June 23 and July 9, 2008, notice of violation ("NOV") letters were sent to Respondents for the violations of OAC Chapter 3745-20.

25. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondents shall pay the amount of forty-eight thousand five hundred dollars (\$48,500) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for thirty-eight thousand eight hundred dollars (\$38,800) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining nine thousand seven hundred dollars (\$9,700) of the civil penalty, Respondents shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$9,700 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tend an official check in the amount of \$9,700 due within thirty (30) days after the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address.

3. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondents fail to fund the SEP within the required timeframe set forth in Order 2, Respondents shall immediately pay to Ohio EPA \$9,700 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Respondents' activities at the facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondents.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio EPA
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402-9395
Attn: Tom Sattler

and to:

Ohio EPA
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Famous Enterprises, Inc.

Signature

Date

Printed or Typed Name

Title

Selvey's Dirt Works, Ltd.

Signature

Date

Printed or Typed Name

Title

PENALTY CALCULATION WORKSHEET FOR VIOLATIONS INVOLVING ASBESTOS DEMOLITION OR RENOVATION PROJECTS

ENTITY NAME: Famous Enterprises, Inc. and Selvey's Dirt Works, Ltd.

LOCATION OF VIOLATION: 1623 1st Street in Sandusky, Ohio

A. GRAVITY COMPONENT	Penalty	Comments
(1) No notice per OAC Rule 3745-20-03 First (1) Second (2) Subsequent (3)	\$15,000	Failure to submit a notification at least 10 working days prior to commencing demolition of the boiler house.
(2) No notice but probable substantive compliance First (1) Second (2) Subsequent (3)		
(3) Late, incomplete, or inaccurate notice (See worksheet)		
(4) Substantive violations First (1) Second (2) Subsequent (3)		
Number of asbestos units:	560 sq. ft./160 sq. ft. per unit = 3.5 units	
Penalty per violation according to USEPA	\$5,000	
Violation of Work Practice Rules	OAC Rule 3745-20-04(A)(1) OAC Rule 3745-20-04(B)(1) OAC Rule 3745-20-05(B)(2)	
Number of sections violated:	3 x \$5,000	\$15,000

Additional days of violation	OAC Rule 3745-20-05(B)(2) violated	Additional days of violation were from 6/13/08 to 7/11/08 (about 29 days) 29 days x \$500/day = \$14,500
Size of violator		Net worth of Famous Enterprises, Inc. and net worth of Selvey's Dirt Works, Ltd. are each assumed to be less than \$100,000. Penalty associated with this amount is \$2,000/company.
TOTAL GRAVITY COMPONENT:		\$4,000
		\$48,500
B. ECONOMIC BENEFIT COMPONENT:		No economic benefit was assessed because Famous Supply, Inc. had to pay a contractor to decontaminate the property and properly dispose of the debris from the demolition. The amount spent on cleanup and disposal negated any economic benefit from amount for a proper asbestos abatement prior to demolition.
(1) For asbestos on pipes-		
Percent improperly removed:	0%	
Dollar amount per linear foot:	\$0.00	
Linear feet involved in project, ft:	0	
(2) For asbestos on other components-		
Percent improperly removed:	0%	
Dollar amount per square foot:	\$0.00	
Square feet involved in project, ft2:	0	
TOTAL ECONOMIC BENEFIT:		\$0
Semi-Total:		\$48,500

C. FLEXIBILITY-ADJUSTMENT FACTORS

- 1. Degree of willfulness or negligence:
Percentage augmentation of gravity component \$0
- 2. Degree of cooperation:
Percentage mitigation of gravity component \$0
- 3. History of noncompliance:
Percentage augmentation of gravity component \$0
- 4. Ability to pay:
Percentage mitigation of gravity component \$0
- 5. Other unique factors:
Percentage mitigation or augmentation
of gravity component \$0

NET FLEXIBILITY-ADJUSTMENT FACTOR:

\$0

MINIMUM SETTLEMENT AMOUNT:

\$48,500



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

JUN 29 2010

CERTIFIED MAIL

Mr. Guy Selvey
Owner
Selvey's Dirt Works, Ltd.
P.O. Box 53
Clyde, OH 43410

Re: Proposed Director's Final Findings and Orders for violations of Ohio EPA's air pollution control requirements

Dear Mr. Selvey:

My staff has informed me of the violations of the Ohio Administrative Code ("OAC") that occurred during a demolition project at the Apex Building property located at 1623 1st Street in Sandusky, Ohio, in 2008. Specifically, the project violated: OAC Rule 3745-20-03(A) by failing to provide notification of demolition to Ohio EPA at least ten working days before the beginning of the demolition operation; OAC Rule 3745-20-04(A)(1) by failing to remove all regulated asbestos-containing material ("RACM") prior to conducting demolition activities; OAC Rule 3745-20-04(B)(1) by handling RACM during the demolition of the facility without having an on-site authorized representative trained in the provisions of OAC Chapter 3745-20; and OAC Rule 3745-20-05(B)(2) by failing to keep asbestos-containing waste material adequately wet. I understand that cleanup of the site was done properly after the visit by Ohio EPA inspectors.

In order to resolve this matter, I am proposing to issue to Selvey's Dirt Works, Ltd. and Famous Enterprises, Inc., the enclosed Findings and Orders prepared by my staff which includes a provision for civil penalties for the settlement of claims resulting from the violations of the State's air pollution control laws and rules. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Because this letter and the attached document summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include provisions for a portion of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project. This provision is being included in Findings and Orders used to resolve violations of Ohio's air pollution control regulations. The project involves diverting 20 percent of the total civil penalty amount towards funding an Ohio EPA program for the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Mr. Guy Selvey
Selvey's Dirt Works, Ltd.
Page 2 of 2

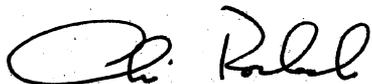
Air Quality Standards for fine particulates (i.e., particles less than 2.5 microns in diameter). Information concerning the school bus retrofit program is provided in an enclosed document.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting or conference call to try to reach a settlement, please contact Donald L. Vanterpool, Ohio EPA Staff Attorney, at (614) 644-3037. If he does not hear from Selvey's Dirt Works, Ltd. within fourteen (14) days of the receipt of this letter concerning its willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the violations to the Ohio Attorney General's Office for legal action.

Enclosed is a copy of the guidance on the administrative enforcement process, which you may find helpful in answering any questions on Ohio EPA's enforcement process.

I hope that Selvey's Dirt Works, Ltd., Famous Enterprises, Inc., and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski
Director

CK/UD/ud

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Urvi Doshi, DAPC
Donald L. Vanterpool, Legal Office
Tom Sattler, NWDO
Mark Budge, NWDO
Chad Delbecq, NWDO

Enclosures

General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with emission control equipment and provide the general guidelines that must be followed by any school system that participates in the program.

1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NOx) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The filtration efficiency of crankcase filters averages between 80% and 97%. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?

Only school buses that meet the following criteria will be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of control equipment would be acceptable for installation?

The USEPA publishes a "Verified Technology List." Only control equipment found on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA, they will be added to the list. A copy of this list can be accessed at the following web site:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

5. Is there a special type of fuel that must be used with the control equipment?

In some cases, yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

6. What costs are associated with the installation and operation of the emission controls?

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon.

Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

7. How will the control devices be funded by the Ohio EPA?

Ohio EPA enforcement case settlements will be the source of the funding for the diesel retrofit installations. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment of \$5,000 or greater), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA has established for the retrofitting of school buses.

8. How will the school systems receive the SEP monies for the diesel retrofit installations?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is installed and maintained properly?

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

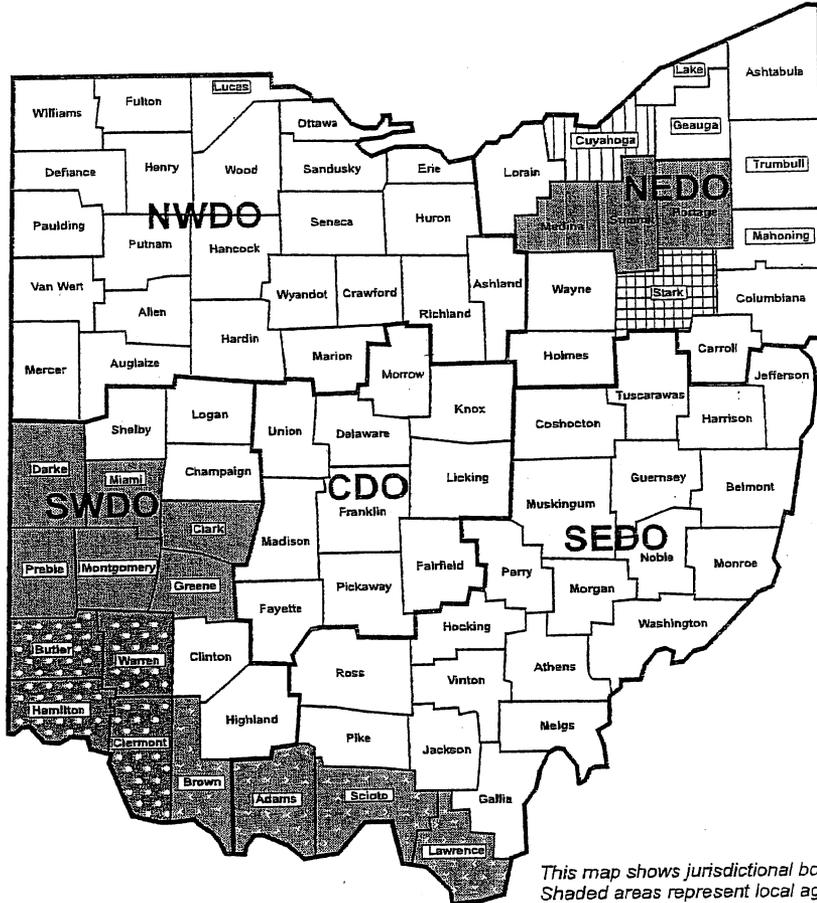
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.



District Offices

CDO Adam Ward, APC Manager
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

16 Lynn Malcolm, Administrator
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@ci.akron.oh.us

15 Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

14 Cory R. Chadwick, Director
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

13 Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

08 John Paul, Administrator
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

07 Cindy Charles, Director
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

04 Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Famous Enterprises, Inc.	:	<u>Director's Final Findings</u>
109 N. Union Street	:	<u>and Orders</u>
Akron, Ohio 44302	:	
	:	
and	:	
	:	
Selvey's Dirt Works, Ltd.	:	
P.O. Box 53	:	
Clyde, Ohio 43410	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Famous Enterprises, Inc. and Selvey's Dirt Works, Ltd. ("Respondents"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or of the facility (as hereinafter defined) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent Famous Enterprises, Inc. is the owner of the Apex Building, which is located at 1623 1st Street in Sandusky, Erie County, Ohio. Respondent Selvey's Dirt Works, Ltd. was hired by Respondent Famous Enterprises, Inc. to demolish the front

three bays of the Apex Building.

2. The Apex Building is a "facility" as defined in Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18), and the project was a "demolition" as defined in OAC Rule 3745-20-01(B)(13).

3. Respondents were each an "owner or operator," as defined in OAC Rule 3745-20-01(B)(39)(a), of the demolition project.

4. OAC Rule 3745-20-02(A) requires each owner or operator of any demolition operation to have the affected facility or part of the facility, where a demolition operation is to occur, thoroughly inspected by a certified asbestos hazard evaluation specialist prior to the commencement of the demolition for the presence of asbestos, including category I and category II nonfriable asbestos-containing material as defined in OAC Rule 3745-20-01(B)(9) and (B)(10).

5. An asbestos survey of the Apex Building was conducted in February 2002 and identified the following "regulated asbestos-containing material" ("RACM"), as defined in OAC Rule 3745-20-01(B)(42), in front of the building and in the boiler house:

Boiler house: 375 square feet of boiler insulation and 185 square feet of tank insulation.
Piping on first floor: 2,075 linear feet of pipe insulation with cementitious fittings, of which approximately 1,000 linear feet of pipe insulation is in the front three bays of the building.

6. Since the amount of RACM in the front three bays of the facility exceeded the threshold level of 260 linear feet on pipe and pursuant to OAC Rule 3745-20-02(B)(1), the requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05 applied to each owner or operator of this demolition operation.

7. On November 15, 2007, and pursuant to the notification requirements of OAC Rule 3745-20-03(A), Affiliated Environmental Services ("AES") submitted to Ohio EPA a notification of intent to perform an asbestos abatement at the facility. The amount of RACM to be removed was identified as 1,000 linear feet on pipes and the dates for removal were identified as November 28 through 30, 2007. Only the asbestos in the front three bays of the facility was to be removed, and did not include the boiler house which was also a part of the front of the building.

8. On November 20, 2007, and pursuant to the notification requirements of OAC Rule 3745-20-03(A), Respondent Selvey's Dirt Works, Ltd. submitted to Ohio EPA a notification of intent to perform a demolition of the facility from December 5, 2007 through June 2008. This notification identified site location for demolition as "Front of the Building" and was not specific concerning demolition of the boiler house portion of the building.

9. From December 3 through 5, 2007, AES removed approximately 1,000 linear feet of pipe insulation (RACM) from the front of the building, excluding the boiler house.

10. On or about June 12, 2008, the entire front of the building, including the boiler house, had been demolished, with 560 square feet of boiler and tank insulation and an unknown amount of pipe insulation (RACM) still inside of the boiler house, and only rubble remained at the site. The boiler had been removed, dismantled and taken to scrap yards weeks earlier. Samples of insulation and paint were collected from debris pile near the previous location of the boiler indicated the presence of asbestos above the threshold level for regulation.

11. ORC § 3704.05(G) prohibits the violation of any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704.

Failure to Submit Notification of Intent to Demolish a Facility Prior to Beginning Demolition:

12. OAC Rule 3745-20-03(A), in part, requires each owner or operator of any demolition operation described in OAC Rule 3745-20-02(B)(1) to provide the Director of Ohio EPA with written notice of intention to demolish a facility at least ten working days before the beginning of any demolition operation.

13. In or about June 2008, Respondents began demolition of the boiler house of the facility without submitting a notification to Ohio EPA, in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

Failure to Remove RACM Prior to Beginning Demolition of a Facility:

14. OAC Rule 3745-20-04(A)(1), in part, requires each owner or operator of a demolition operation to whom this rule applies, to remove all RACM from a facility being demolished before any activity begins that would break up, dislodge, or similarly disturb the materials or preclude access to the materials for subsequent removal.

15. Respondents failed to remove all RACM from the boiler house before beginning demolition of the front of the structure in or about June 2008, in violation of OAC Rule 3745-20-04(A)(1) and ORC § 3704.05(G).

Failure to Have Trained Representative Present at the Site During Demolition:

16. OAC Rule 3745-20-04(B)(1), in part, prohibits any RACM to be stripped, removed, or otherwise handled or disturbed at a facility regulated by OAC Chapter 3745-20 unless at least one authorized representative, trained in the provisions of OAC Chapter 3745-20, is present at the location of the demolition.

17. Respondents allowed RACM to be handled or disturbed during the demolition of the boiler house at the Apex Building in or about June 2008 without having at least one authorized representative, trained in the provisions of OAC Chapter 3745-20, present at the location of such demolition, in violation of OAC Rule 3745-20-04(B)(1) and ORC § 3704.05(G).

Failure to Keep Asbestos-Containing Waste Material Adequately Wet After Demolition Where RACM Was Not Removed Prior to Demolition:

18. OAC Rule 3745-20-05(B)(2) requires each owner or operator of a subject demolition operation, where asbestos was not removed prior to demolition, to keep asbestos-containing waste material adequately wet at all times during and after demolition and during handling, loading, transport and disposal at an active waste disposal site.

19. Respondents failed to keep asbestos-containing waste material adequately wet during and after demolition of this portion of the facility where asbestos was not removed prior to demolition, in violation of OAC Rule 3745-20-05(B)(2) and ORC § 3704.05(G).

20. On June 16 and June 17, 2008, an Ohio EPA inspector returned to inspect the demolition project. During the inspection, Ohio EPA found dry, friable asbestos-containing waste material still laying on the site, in continued violation of OAC Rule 3745-20-05(B)(2) and ORC § 3704.05(G).

21. On June 18, 2008, an Ohio EPA inspector spoke to Respondent Famous Enterprises, Inc. regarding the current findings at the Apex building demolition site. Respondent Famous Enterprises, Inc. was informed that the presence of asbestos in the debris requires the debris pile to be maintained adequately wet.

22. On June 19 and 20, 2008; and July 2, 7, and 11, 2008, an Ohio EPA inspector returned to the site and found debris partially covered and dry, in continued violation of OAC Rule 3745-20-05(B)(2) and ORC § 3704.05(G).

23. After the Ohio EPA inspector visited the facility on June 20, 2008, the demolition project was halted and Partners Environmental Consulting, Inc. was hired by Respondent Famous Enterprises, Inc. to oversee the cleanup and GCS Industrial Services, Ltd. was hired to perform an asbestos abatement. The final asbestos abatement was completed on August 21, 2008.

24. On June 23 and July 9, 2008, notice of violation ("NOV") letters were sent to Respondents for the violations of OAC Chapter 3745-20.

25. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondents shall pay the amount of forty-eight thousand five hundred dollars (\$48,500) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for thirty-eight thousand eight hundred dollars (\$38,800) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining nine thousand seven hundred dollars (\$9,700) of the civil penalty, Respondents shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$9,700 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondents shall tend an official check in the amount of \$9,700 due within thirty (30) days after the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondents and Fund 5CD0, to the above-stated address.

3. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondents fail to fund the SEP within the required timeframe set forth in Order 2, Respondents shall immediately pay to Ohio EPA \$9,700 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Respondents' activities at the facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondents.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio EPA
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402-9395
Attn: Tom Sattler

and to:

Ohio EPA
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Famous Enterprises, Inc.

Signature

Date

Printed or Typed Name

Title

Selvey's Dirt Works, Ltd.

Signature

Date

Printed or Typed Name

Title

PENALTY CALCULATION WORKSHEET FOR VIOLATIONS INVOLVING ASBESTOS DEMOLITION OR RENOVATION PROJECTS

ENTITY NAME: Famous Enterprises, Inc. and Selvey's Dirt Works, Ltd.

LOCATION OF VIOLATION: 1623 1st Street in Sandusky, Ohio

A. GRAVITY COMPONENT

Comments	Penalty
(1) No notice per OAC Rule 3745-20-03	
First (1) Second (2) Subsequent (3)	
(2) No notice but probable substantive compliance	
First (1) Second (2) Subsequent (3)	
(3) Late, incomplete, or inaccurate notice (See worksheet)	
(4) Substantive violations	
First (1) Second (2) Subsequent (3)	

Failure to submit a notification at least 10 working days prior to commencing demolition of the boiler house.
\$15,000

Number of asbestos units: 560 sq. ft./160 sq. ft. per unit = 3.5 units

Penalty per violation according to USEPA \$5,000

Violation of Work Practice Rules
OAC Rule 3745-20-04(A)(1)
OAC Rule 3745-20-04(B)(1)
OAC Rule 3745-20-05(B)(2)

Number of sections violated: 3 x \$5,000 \$15,000

Additional days of violation	OAC Rule 3745-20-05(B)(2) violated	Additional days of violation were from 6/13/08 to 7/11/08 (about 29 days). 29 days x \$500/day = \$14,500	
Size of violator		Net worth of Famous Enterprises, Inc. and net worth of Selvey's Dirt Works, Ltd. are each assumed to be less than \$100,000. Penalty associated with this amount is \$2,000/company.	\$14,500
TOTAL GRAVITY COMPONENT:			\$48,500
<p>No economic benefit was assessed because Famous Supply, Inc. had to pay a contractor to decontaminate the property and properly dispose of the debris from the demolition. The amount spent on cleanup and disposal negated any economic benefit from amount for a proper asbestos abatement prior to demolition.</p>			
B. ECONOMIC BENEFIT COMPONENT:			
(1) For asbestos on pipes-			
Percent improperly removed:	0%		
Dollar amount per linear foot:	\$0.00		
Linear feet involved in project, ft:	0		
(2) For asbestos on other components-			
Percent improperly removed:	0%		
Dollar amount per square foot:	\$0.00		
Square feet involved in project, ft ² :	0		
TOTAL ECONOMIC BENEFIT:			\$0
Semi-Total:			\$48,500

C. FLEXIBILITY-ADJUSTMENT FACTORS

1. Degree of willfulness or negligence: Percentage augmentation of gravity component	\$0
2. Degree of cooperation: Percentage mitigation of gravity component	\$0
3. History of noncompliance: Percentage augmentation of gravity component	\$0
4. Ability to pay: Percentage mitigation of gravity component	\$0
5. Other unique factors: Percentage mitigation or augmentation of gravity component	\$0

NET FLEXIBILITY-ADJUSTMENT FACTOR:

\$0

MINIMUM SETTLEMENT AMOUNT:

\$48,500



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43245

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

JUN 29 2010

CERTIFIED MAIL

Mr. William Scala
Owner/President
Kenmore Construction Co., Inc.
700 Home Avenue
Akron, Ohio 44310

Re: Proposed Director's Final Findings and Orders for air pollution control rule and law violations

Dear Mr. Scala:

My staff has informed me of the violations of Ohio Administrative Code ("OAC") Rules 3745-17-07(B)(4), 3745-17-07(B)(5), and 3745-17-08(B) and Ohio Revised Code ("ORC") § 3704.05(A) and (G) associated with Kenmore Construction Co., Inc.'s failure to employ dust control measures for its masonry cutting and sawing operations, for the carryout of dirt onto paved and unpaved roads, and for other sources at multiple construction sites in Akron and Cuyahoga Falls. Despite numerous notices of violation from the Akron Regional Air Quality Management District, Ohio EPA's contractual representative in Summit County, these violations continued from 2007 through 2010 without complete resolution.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff which includes a provision for the settlement of the claims for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. Because this letter and the enclosed documents summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include a provision for 20 percent of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project involving the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards for fine particulates (i.e., particles less than 2.5 microns in diameter). Information concerning the school bus retrofit program is

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

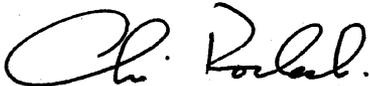
Mr. William Scala
Owner/President
Kenmore Construction Co., Inc.
Page 2 of 2

provided in an enclosed document.

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting or conference call to try to negotiate a settlement, please contact Donald L. Vanterpool of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from Kenmore Construction Co., Inc., within fourteen (14) days of receipt of this letter, concerning its willingness to accept the Findings and Orders as currently written or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

I hope that Kenmore Construction Co., Inc. and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski
Director

cc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Urvi Doshi, DAPC
Donald L. Vanterpool, Legal Office
Frank Markunas/Bonetta Guyette, ARAQMD

Enclosures

CK:UD:ud

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

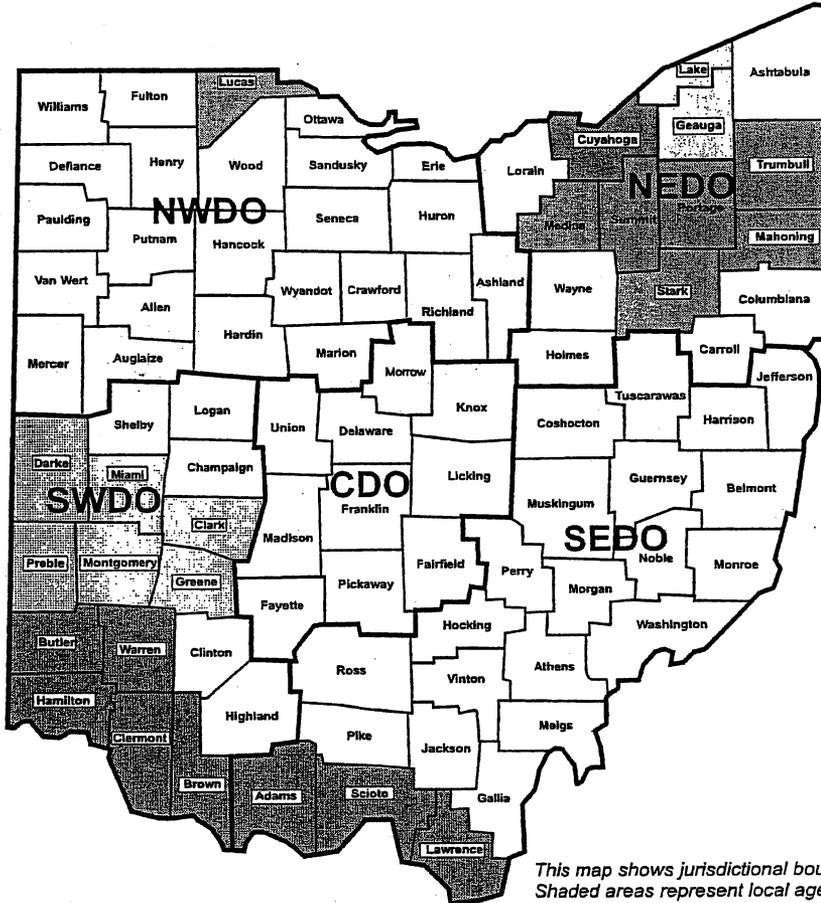
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Local Air Pollution Control Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.

OhioEPA

District Offices

CDO Adam Ward, APC Manager
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

16 Lynn Malcolm, Administrator
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@ci.akron.oh.us

15 Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

14 Cory R. Chadwick, Director
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

13 Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

08 John Paul, Administrator
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

20 Bert Mechenbier, Supervisor *
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lchghd.org

07 Cindy Charles, Director
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

04 Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

21 Misty Koletich, Supervisor *
Mahoning-Trumbull APC Agency
345 Oak Hill Ave., Suite 200
Youngstown, Ohio 44502
(330) 743-3333 FAX (330) 744-1928
e-mail: mtapca@cboss.com

*Facilities located within these jurisdictions should file air permit applications with Ohio EPA's Northeast District Office (NEDO).

General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with emission control equipment and provide the general guidelines that must be followed by any school system that participates in the program.

1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NO_x) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The filtration efficiency of crankcase filters averages between 80% and 97%. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?

Only school buses that meet the following criteria will be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of control equipment would be acceptable for installation?

The USEPA publishes a "Verified Technology List." Only control equipment found on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA, they will be added to the list. A copy of this list can be accessed at the following web site:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

5. Is there a special type of fuel that must be used with the control equipment?

In some cases, yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

6. What costs are associated with the installation and operation of the emission controls?

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon.

Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

7. How will the control devices be funded by the Ohio EPA?

Ohio EPA enforcement case settlements will be the source of the funding for the diesel retrofit installations. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment of \$5,000 or greater), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA has established for the retrofitting of school buses.

8. How will the school systems receive the SEP monies for the diesel retrofit installations?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is installed and maintained properly?

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Kenmore Construction Co., Inc.	:	<u>Director's Final Findings</u>
700 Home Avenue	:	<u>and Orders</u>
Akron, Ohio 44310	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Kenmore Construction Co., Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent is a general construction contractor with an office located at 700 Home Avenue in Akron, Summit County, Ohio. Respondent was incorporated with the Ohio Secretary of State to do business in Ohio since 1985.
2. Akron Regional Air Quality Management District ("ARAQMD") is a contractual agent for Ohio EPA in Summit County.

3. A "fugitive dust source," in part, is defined in Ohio Administrative Code ("OAC") Rule 3745-17-01(B)(7) as any air contaminant source that emits "fugitive dust" as defined in OAC Rule 3745-17-01(B)(6).

4. OAC Rule 3745-17-08(A)(1) states, in part, that the requirements of OAC Rule 3745-17-08(B) apply to any fugitive dust source which is located within the areas identified in Appendix A of such rule, unless otherwise provided in OAC Rule 3745-17-08(A)(3). The City of Akron and the City of Cuyahoga Falls are listed in Appendix A.

5. OAC Rule 3745-17-08(B) states, in part, that no person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building to be constructed, altered, repaired, or demolished without taking or installing reasonably available control measures ("RACM") to prevent fugitive dust from becoming airborne. Such RACM shall include, but not be limited to, the use of water or other suitable dust suppression chemicals for control of fugitive dust from construction operations and/or the use of adequate containment methods.

6. OAC Rule 3745-17-07(B)(4) states, in part, there shall be no visible particulate emissions from any paved roadway or parking area except for a period of time not to exceed six minutes during any sixty-minute observation period.

7. OAC Rule 3745-17-07(B)(5) states, in part, there shall be no visible particulate emissions from any unpaved roadway or parking area except for a period of time not to exceed thirteen minutes during any sixty-minute observation period.

8. ORC § 3704.05(A) prohibits any person from causing, permitting, or allowing emission of an air contaminant in violation of any OAC rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-17 was adopted by the Director pursuant to ORC Chapter 3704.

9. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-17 was adopted by the Director pursuant to ORC Chapter 3704.

10. Respondent caused or permitted uncontrolled fugitive dust emissions to be generated without employing RACM to minimize or eliminate visible particulate emissions of fugitive dust, in violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(A) and (G), at construction projects in Akron and Cuyahoga Falls, Ohio. The locations, dates, times, and sources of fugitive dust for the violations are identified in the following table:

Location	Date	Time	Fugitive Dust Source
1500 block of East Market Street, Akron	03/21/07	09:50 a.m.	Operating rotary broom/ sweeper on street
East Market Street at Seiberling, Akron	05/14/08	10:15 a.m.	Operating rotary broom/ sweeper on street
Power Street near Brown Street, Akron	05/19/08	02:45 p.m.	Sawing vitrified clay pipe
Union Street at Nash Street, Akron	05/21/08	02:15 p.m.	Sawing concrete pipe
Brown Street at west entrance/exit to U of A Stadium, Akron	05/23/08	02:15 p.m.	Construction traffic and dirt carryout
500 block of Brown Street near Crouse Street, Akron (U of A Stadium project)	05/23/08	02:15 p.m.	Construction traffic and dirt carryout
East entrance/exit to U of A Stadium corner Nash and Spicer streets, Akron	05/23/08	02:15 p.m.	Excavation activities/ construction traffic and dirt carryout
Brown Street from Ranklin Street to Crouse Street, Akron (City of Akron project)	05/28/08	11:20 a.m.	Excavation activities/ construction traffic and dirt carryout
Brown Street between Crouse and Power streets and at Brown and Nash streets, Akron	06/13/08	12:05 p.m.	Construction traffic and dirt carryout
Brown Street between Exchange and Power streets, Akron	06/20/08	02:55 p.m.	Construction traffic
400 block of E. Exchange Street and extending to one half mile east of construction site along E. Exchange Street to beyond State Route 8, Akron (U of A Stadium project)	06/25/08	11:45 a.m.	Construction traffic and dirt carryout/ operating rotary broom/sweeper on street
Crouse Street at Brown Street, Akron	09/24/08	01:35 p.m.	Operation of rotary broom/ sweeper; construction traffic and dirt carryout

Cascade Court at North Street, Akron	10/17/08	12:55 p.m.	Jackhammering concrete curbs
Brown Street at Vine Street, Akron (U of A Stadium project)	10/23/08	03:05 p.m.	Construction traffic and dirt carryout
Brown Street at Vine Street, Akron (U of A Stadium project)	10/24/08	10:30 a.m.	Construction traffic and dirt carryout
Spicer Street adjacent to stadium site, Akron (U of A Stadium project)	02/25/09	01:15 p.m.	Construction traffic and dirt carryout
Nash, East Exchange, Vine and Spicer streets, Akron	03/04/09	02:00 p.m.	Construction traffic and dirt carryout
U of A Site – Vine Street, Akron	03/05/09	02:40 p.m.	Construction traffic and dirt carryout
Spicer Street, Akron	07/16/09	12:30 p.m.	Unpaved haul road
Spicer Street, Akron	07/16/09	02:10 p.m.	Unpaved haul road
Spicer Street, Akron (U of A multiplex site)	07/28/09	12:10 p.m.	Unpaved haul road
1800 block of Front Street, Cuyahoga Falls	10/06/09	01:05 p.m.	Carryout onto paved streets and sawing of stone
East Mill Street bridge, Akron	12/02/09	01:10 p.m.	Demolition work
East Mill Street bridge, Akron	03/26/10	03:15 p.m.	Jackhammering concrete curbs

11. Respondent caused visible particulate emissions from paved roadways, which exceeded six minutes during any sixty-minute observation period, in violation of OAC Rule 3745-17-07(B)(4) and ORC § 3704.05(A) and (G), at multiple University of Akron (“U of A”) construction projects. Respondent also caused visible particulate emissions from unpaved roadways, which exceeded thirteen minutes during any sixty-minute observation period, in violation of OAC Rule 3745-17-07(B)(5) and ORC § 3704.05(A) and (G), at multiple University of Akron (“U of A”) construction projects. The locations, dates, times, and readings of visible particulate emissions for the violations are identified in the following table:

City of Akron Location	Date	VEs Observation Time (min./sec.)
Nash and Union streets (U of A Stadium project) (paved roadways)	05/23/08	07:46 over 60 minutes
414 Exchange Street (U of A Stadium project) (paved roadways)	06/25/08	52:25 over 60 minutes
Crouse Street at Kern Avenue (U of A Stadium project) (paved roadways)	09/24/08	07:46 over 60 minutes
Vine and Brown streets (U of A Stadium project) (paved roadways)	10/24/08	20:11 over 60 minutes
Nash Street (U of A Stadium project) (paved roadways)	03/04/09	14:08 over 60 minutes
Vine Street (U of A Stadium project) (unpaved roadways)	07/16/09	26:32 over 60 minutes
Vine Street (U of A Stadium project) (unpaved roadways)	07/28/09	15:07 over 60 minutes

12. The following table summarizes the dates of Notice of Violation (“NOV”) letters that were sent to Respondent by ARAQMD and the dates that Respondent’s responses were received. The warning letters required Respondent to cease illegally operating a fugitive dust source without employing RACM and to submit a plan describing the dust control measures that would be utilized in the future.

NOV Date	Projects Involved	Date Response was Received
05/16/08	East Market Street by U of A area	05/23/08
08/01/08	Brown Street between Exchange and Power Streets	08/13/08
11/19/08	Vine and Brown Streets	12/10/08

13. In the May 23, 2008, response to the May 16, 2008 NOV letter, the Respondent stated the weather conditions for the dates of inspection were average with wind gusts of 20 miles per hour. Respondent did not address any dust control plan in the response letter. Additionally, the Respondent requested ARAQMD to contact them immediately when any significant fugitive dust is observed at any of its sites.

14. On March 26, 2010, ARAQMD notified Respondent of the fugitive dust emissions violations on and around the University of Akron's construction sites referenced in Finding No. 10 of these Orders. On March 29, 2009, Respondent requested a meeting with ARAQMD to discuss the fugitive dust emission violations at the construction sites.

15. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Upon the effective date of these Orders, Respondent shall employ reasonably available control measures as required pursuant to OAC Rule 3745-17-08(B), for all fugitive dust sources identified in the tables of Finding No. 10 and No. 11 that will minimize or eliminate visible emissions of fugitive dust from all operations at its Ohio construction sites located in the Appendix A areas identified in OAC Rule 3745-17-08 and shall achieve compliance with OAC Rules 3745-17-07(B)(4) and 3745-17-07(B)(5). Respondent shall maintain such sources in compliance with OACs Rules 3746-17-07(B)(4), 3745-17-07(B)(5), and 3745-17-08(B) thereafter.

2. Respondent shall pay the amount of thirty-one thousand and five hundred dollars (\$31,500) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-five thousand and two hundred dollars (\$25,200) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

3. In lieu of paying the remaining six thousand and three hundred dollars (\$6,300) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$6,300 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$6,300. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated

address.

4. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Développement and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 3, Respondent shall immediately pay to Ohio EPA \$6,300 of the civil penalty in accordance with the procedures in Order 2.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duly authorized representative.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Akron Regional Air Quality Management District
146 South High Street, Room 904
Akron, Ohio 44308
Attn: Bonetta Guyette

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski
Director

Date

AGREED:

Kenmore Construction Co., Inc.

Signature

Date

Printed or Typed Name

Title

AIR CIVIL PENALTY WORK SHEET

Kenmore Construction Co., Inc.
 Various construction sites in Akron and Cuyahoga Falls
 (for settlement purposes only)

A. Benefit Component:	\$0		The economic benefit is assumed to be negligible (i.e., less than \$5,000) because the control equipment was available, but not used.
B. Gravity Component:			
1. Actual or possible harm:			
a. Amount above standard:	\$5,000		Minimum penalty has been assessed since actual and allowable visible emissions cannot be quantified.
b. Toxicity:	\$0		not applicable
c. Sensitivity of the environment:	\$5,000		Attainment area for particulate matter.
d. Length of violation:	\$5,000		22 days (May 19, 21, 23 and 28, 2008; June 13, 20 and 25, 2008; September 24, 2008; October 17, 23 and 24, 2008; February 25, 2009; March 4 and 5, 2009; July 15, 16 and 28, 2009; October 6, 2009; December 2, 2009, and March 26, 2010).
i. Failure to employ RACM on fugitive dust sources.			
ii. Failure to comply with VE limits for fugitive dust sources.	\$5,000		7 days (May 23, 2008; June 25, 2008; September 24, 2008; October 24, 2008; March 4, 2009; July 16, 2009; and July 28, 2009).
2. Importance to the regulatory scheme:			
a. Testing violation:	\$0		not applicable
b. Emissions control equipment violation:	\$15,000		Failed to use reasonably available control measures (water application) to control fugitive dust.
c. Violation of an administrative order:	\$0		not applicable
d. Title V permitting violations:	\$0		not applicable
e. Reporting violations:	\$0		not applicable

f. Record-keeping violations:	\$0		not applicable
g. Compliance certification violations	\$0		not applicable
h. Title V compliance schedule violations:	\$0		not applicable
3. Size of violator:	\$10,000		Net worth (about \$3 million) is estimated at 20% of annual revenues (annual revenues are \$10 to 20 million from Reference USA database, average \$15 million).
Preliminary Deterrence Amount		\$45,000	
Initial Gravity Component:		\$45,000	
C. Adjustment Factors:			
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)	\$0		not applicable
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		not applicable
4. Ability to pay: (any mitigation amount)	\$0		not applicable
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	(\$13,500)		30% mitigation for small amount of non-complying mass emissions.
D. Adjusted Gravity Component:		\$31,500	
E. Administrative Component			not applicable
F. Initial Settlement Amount:		\$31,500	